STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS

BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY • GOVERNOR EDMUND G. BROWN JR.
BOARD OF REGISTERED NURSING
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LEGISLATIVE COMMITTEE MEETING AGENDA

California Board of Registered Nursing
1747 N. Market Boulevard- Hearing Room
Sacramento, California 95834
(916) 574-7600

May 10, 2017

THIS MEETING WILL IMMEDIATELY FOLLOW THE CONCLUSION OF THE NURSING PRACTICE COMMITTEE MEETING

Wednesday, May 10, 2017:

8.0 Call to Order, Roll Call, and Establishment of Quorum

8.01 Review and Vote on Whether to Approve Previous Meeting Minutes:

- March 8, 2017

8.1 Discuss Bills of Interest to the Board and Recommend that the Board Adopt or Modify Positions on the Bills Introduced During the 2017-2018 Legislative Session

Legislative bills impacting registered nursing education or practice

- AB 40 (Santiago) CURES database: health information technology system
- AB 44 (Reyes) Workers' compensation: medical treatment: terrorist attacks: workplace violence
- AB 334 (Cooper) Sexual assault
- AB 882 (Arambula) Pupil health care services: School Nursing and Pupil Health Care Services Task Force
- AB 1048 (Arambula) Health care: pain management and Schedule II drug prescriptions
- AB 1102 (Rodriguez) Health facilities: whistleblower protections
- AB 1110 (Burke) Pupil health: eye and vision examinations
- AB 1560 (Friedman) Nurse practitioners: supervision
- AB 1612 (Burke) Nursing: certified nurse-midwives: supervision
- AB 1650 (Maienschein) Emergency medical services: community paramedicine
- SB 349 (Lara) Chronic dialysis clinics: staffing requirements
- SB 419 (Portantino) Medical practice: pain management
- SB 457 (Bates) Out-of-Hospital childbirths: physicians and surgeons: licensed midwives: certified nurse-midwives
- SB 554 (Stone) Nurse practitioners: physician assistants: buprenorphine

Legislative bills impacting BRN jurisdiction

- AB 241 (Dababneh) Personal Information: privacy: state and local agency breach
- AB 703 (Flora) Professions and vocations: licenses: fee waivers
- AB 710 (Wood) Department of Consumer Affairs: boards: meetings
- AB 1005 (Calderon) Professions and vocations: fines: relief
- SB 181 (Berryhill) Administrative Procedure Act: repeal of regulations

- SB 641 (Lara) Controlled Substance Utilization Review and Evaluation System: Privacy
- SB 762 (Hernandez) Healing arts licensee: license activation fee: waiver
- SB 799 (Hill) Nursing

8.2 Public Comment for Items Not on the Agenda

8.3 Adjournment

NOTICE:

All times are approximate and subject to change. Items may be taken out of order to maintain a quorum, accommodate a speaker, or for convenience. The meeting may be canceled without notice. For verification of the meeting, call (916) 574-7600 or access the Board's Web Site at http://www.rn.ca.gov. Action may be taken on any item listed on this agenda, including information only items.

Public comments will be taken on agenda items at the time the item is heard. Total time allocated for public comment may be limited.

The meeting is accessible to the physically disabled. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting the Administration Unit at (916) 574-7600 or email webmasterbrn@dca.ca.gov, or send a written request to the Board of Registered Nursing at 1747 N. Market Blvd., Ste. 150, Sacramento, CA 95834. (Hearing impaired: California Relay Service: TDD phone # (800) 326-2297). Providing your request at least five (5) business days before the meeting will help to ensure the availability of the requested accommodation. Board members who are not members of this committee may attend meetings as observers only, and may not participate or vote. Action may be taken on any item listed on this agenda, including information only items. Items may be taken out of order for convenience, to accommodate speakers, or maintain a quorum.

BOARD OF REGISTERED NURSING
Legislative Committee
Agenda Item Summary

AGENDA ITEM: 8.1
DATE: May 10, 2017

ACTION REQUESTED: Discuss Bills of Interest to the Board and Adopt or Modify Positions on the Bills Introduced during the 2017-2018 Legislative Session

REQUESTED BY: Donna Gerber, Chair

BACKGROUND:

Assembly Bills			Senate Bills	
AB 12	AB 422	AB 1048	SB 27	SB 554
AB 40	AB 508	AB 1102	SB 227	SB 555
AB 44	AB 703	AB 1110	SB 247	SB 572
AB 77	AB 710	AB 1190	SB 259	SB 641
AB 208	AB 767	AB 1560	SB 349	SB 746
AB 241	AB 827	AB 1612	SB 419	SB 762
AB 334	AB 882	AB 1650	SB 457	SB 799
AB 402	AB 1005		SB 496	

NEXT STEPS: Present recommendations to the Board

FINANCIAL IMPLICATIONS, IF ANY: As reflected by proposed legislation

PERSON TO CONTACT: Kay Weinkam, M.S., RN, CNS
Nursing Education Consultant/Legislative Liaison
(916) 574-7600

BOARD OF REGISTERED NURSING
ASSEMBLY BILLS 2017-2018
May 10, 2017

BILL #	AUTHOR	SUBJECT	COMM POSITION (date)	BOARD POSITION (date)	BILL STATUS
AB 40	**Santiago**	**CURES database: health information technology system**		**Watch (2/8/17)**	**Assembly APPR**
AB 44	**Reyes**	**Workers' compensation: medical treatment: terrorist attacks: workplace violence**		**Watch (2/8/17)**	**Assembly APPR**
HR 6	Burke	Relative to women's reproductive health			Adopted January 30, 2017
AB 334	**Cooper**	**Sexual assault**			**Assembly APPR**
AB 402	Thurmond	Occupational safety and health standards: plume	Support (3/8/17)	Support (4/5/17)	Assembly 3rd Reading
AB 422	Arambula	California State University: Doctor of Nursing Practice Degree Program	Watch (3/8/17)	Watch (4/5/17)	Assembly APPR
AB 508	Santiago	Health care practitioners: student loans	Support (3/8/17)	Support (4/5/17)	Assembly APPR
AB 882	**Arambula**	**Pupil health care services: School Nursing and Pupil Health Care Services Task Force**	**Watch (3/8/17)**	**Watch (4/5/17)**	**Assembly APPR**
AB 1048	**Arambula**	**Health care: pain management and Schedule II drug prescriptions**			**Assembly APPR**
AB 1102	**Rodriguez**	**Health facilities: whistleblower protections**		**Watch (4/5/17)**	**Assembly APPR**
AB 1110	**Burke**	**Pupil health: eye and vision examinations**	**Watch (3/8/17)**	**Watch (4/5/17)**	**Assembly APPR**
AB 1560	**Friedman**	**Nurse practitioners: supervision**			**Assembly B&P**
AB 1612	**Burke**	**Nursing: certified nurse-midwives: supervision**	**Watch (3/8/17)**	**Watch (4/5/17)**	**Assembly APPR**
AB 1650	**Maienschein**	**Emergency medical services: community paramedicine**			**Assembly APPR**

Bold denotes a bill that is a new bill for Committee or Board consideration or one that has been amended since the last Committee or Board meeting.

BOARD OF REGISTERED NURSING
SENATE BILLS 2017-2018
May 10, 2017

BILL #	AUTHOR	SUBJECT	COMM POSITION (date)	BOARD POSITION (date)	BILL STATUS
SB 227	Monning	Vocational nurse: feeding tube services: neurodegenerative conditions	Watch (3/8/17)	Watch (4/5/17)	Senate BP&ED
SB 349	**Lara**	**Chronic dialysis clinics: staffing requirements**		**Watch (4/5/17)**	**Senate APPR**
SB 419	**Portantino**	**Medical practice: pain management**		**Watch (4/5/17)**	**Senate BP&ED**
SB 457	**Bates**	**Out-of-Hospital childbirths: physicians and surgeons: licensed midwives: certified nurse-midwives**			**Senate BP&ED**
SB 554	**Stone**	**Nurse practitioners: physician assistants: buprenorphine**	**Support (3/8/17)**	**Watch (4/5/17)**	**Senate Consent Calendar**
SB 746	Portantino	Pupil health: physical examinations	Watch (3/8/17)	Watch (4/5/17)	Senate ED

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BOARD OF REGISTERED NURSING
ASSEMBLY BILLS 2017-2018
Related to BRN or DCA Administration

May 10, 2017

BILL #	AUTHOR	SUBJECT	COMM POSITION	BOARD POSITION	BILL STATUS
AB 12	Cooley	State government: administrative regulations: review		Watch (2/8/17)	Assembly APPR (Suspense)
AB 77	Fong	Regulations: effective dates and legislative review		Watch (2/8/17)	Assembly APPR
AB 208	Eggman	Deferred entry of judgment: pretrial diversion	Oppose (3/8/17)	Oppose (4/5/17)	Assembly APPR (Suspense)
AB 241	**Dababneh**	**Personal Information: privacy: state and local agency breach**			**Assembly APPR (Suspense)**
AB 703	**Flora**	**Professions and vocations: licenses: fee waivers**			**Assembly B&P**
AB 710	**Wood**	**Department of Consumer Affairs: boards: meetings**			**Assembly APPR**
AB 827	Rubio	Department of Consumer Affairs: high-skill Immigrants: license information		Watch (4/5/17)	Assembly APPR
AB 1005	**Calderon**	**Professions and vocations: fines: relief**		**Watch (4/5/17)**	**Assembly APPR**
AB 1190	Obernolte	Department of Consumer Affairs: BreEZe system: annual report	Watch (3/8/2017)	Watch (4/5/17)	Assembly APPR

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BOARD OF REGISTERED NURSING
SENATE BILLS 2017-2018
Related to BRN or DCA Administration

May 10, 2017

BILL #	AUTHOR	SUBJECT	COMM POSITION	BOARD POSITION	BILL STATUS
SB 27	Morrell	Professions and vocations: licenses: military service		Watch (2/8/2017)	Senate APPR
SB 181	**Berryhill**	**Administrative Procedure Act: repeal of regulations**			**Senate GO**
SB 247	*Moorlach*	*Licensing requirements*	*Watch (3/8/2017)*		*No longer applicable to the Board*
SB 259	Wilk	Reports			Senate GO
SB 359	Galgiani	Professions and vocations: military medical personnel			Senate Rules
SB 496	*Canella and De León*	*Indemnity: design professionals*	*Watch (3/8/2017)*	*Watch (4/5/2017)*	*No longer applicable to the Board*
SB 555	Morrell	Regulations: 5-year Review and Report		Watch (4/5/2017)	Senate GO (Failed)
SB 572	Stone	Healing Arts Licensees: Violations: Grace Period		Watch (4/5/2017)	Senate BP&ED
SB 641	**Lara**	**Controlled Substance Utilization Review and Evaluation System: Privacy**		**Watch (4/5/2017)**	**Senate APPR**
SB 762	**Hernandez**	**Healing arts licensee: license activation fee: waiver**			**Senate APPR**
SB 799	**Hill**	**Nursing**	**Support (3/8/2017)**	**Support (4/5/2017)**	**Senate APPR**

Bold denotes a bill that is a new bill for Committee or Board consideration or one that has been amended since the last Committee or Board meeting.

BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
May 10, 2017

BILL ANALYSIS

AUTHOR:	Santiago	**BILL NUMBER:**	AB 40
SPONSOR:	California Chapter of the American College of Emergency Physicians (California ACEP)	**BILL STATUS:**	Assembly Committee on Appropriations
SUBJECT:	CURES database: health information technology system	**DATE LAST AMENDED:**	April 19, 2017

SUMMARY:
Existing law classifies certain controlled substances into designated schedules.

Existing law requires the Department of Justice to maintain the Controlled Substance Utilization Review and Evaluation System (CURES) for the electronic monitoring of the prescribing and dispensing of Schedule II, Schedule III, and Schedule IV controlled substances by a health care practitioner authorized to prescribe, order, administer, furnish, or dispense a Schedule II, Schedule III, or Schedule IV controlled substance.

Existing law authorizes the Department of Justice to conduct audits of the CURES database and its users.

ANALYSIS:
Legislator's summary: AB 40 would allow health information technology systems to integrate with CURES for the purpose of automatically querying CURES on behalf of a CURES registered user.

This bill would require the Department of Justice to make the electronic history of controlled substances dispensed to an individual under a health care practitioner's care, based on data contained in the CURES database, available to the practitioner through either an online Internet Web portal or an authorized health information technology system, as defined.

The bill would authorize a health information technology system to establish an integration with and submit queries to the CURES database if the system can certify, among other requirements, that the data received from the CURES database will not be used for any purpose other than delivering the data to an authorized health care practitioner or performing data processing activities necessary to enable delivery, and that the system meets applicable patient privacy and information security requirements of state and federal law.

The bill would also authorize the Department of Justice to require an entity operating a health information technology system to enter into a memorandum of understanding or other agreement setting forth terms and conditions with which the entity must comply.

Amended analysis as of 4/19:
The bill eliminates the provision that would authorize the Department of Justice to conduct audits of any authorized health information technology system integrated with the CURES database.

BOARD POSITION: Watch (2/8/17)

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Not previously considered

SUPPORT:
California Chapter of the American College of Emergency Physician (California ACEP)
California Access Coalition
California Medical Board

OPPOSE: None on file

AMENDED IN ASSEMBLY APRIL 19, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL No. 40

Introduced by Assembly Member Santiago

December 5, 2016

An act to amend ~~Sections 11165.1 and 11165.2~~ *Section 11165.1* of the Health and Safety Code, relating to controlled substances, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 40, as amended, Santiago. CURES database: health information technology system.

Existing law classifies certain controlled substances into designated schedules. Existing law requires the Department of Justice to maintain the Controlled Substance Utilization Review and Evaluation System (CURES) for the electronic monitoring of the prescribing and dispensing of Schedule II, Schedule III, and Schedule IV controlled substances by a health care practitioner authorized to prescribe, order, administer, furnish, or dispense a Schedule II, Schedule III, or Schedule IV controlled substance.

This bill would require the Department of Justice to make the electronic history of controlled substances dispensed to an individual under a health care practitioner's care, based on data contained in the CURES database, available to the practitioner through either an online Internet Web portal or an authorized health information technology system, as defined. The bill would authorize a health information technology system to establish an integration with and submit queries to the CURES database if the system can certify, among other requirements, that the data received from the CURES database will not

be used for any purpose other than delivering the data to an authorized health care practitioner or performing data processing activities necessary to enable delivery, and that the system meets applicable patient privacy and information security requirements of state and federal law. The bill would also authorize the Department of Justice to require an entity operating a health information technology system to enter into a memorandum of understanding or other agreement setting forth terms and conditions with which the entity must comply.

~~Existing law authorizes the Department of Justice to conduct audits of the CURES database and its users.~~

~~This bill would authorize the Department of Justice to conduct audits of any authorized health information technology system integrated with the CURES database.~~

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ⅔. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 11165.1 of the Health and Safety Code, as amended by Section 2 of Chapter 708 of the Statutes of 2016, is amended to read:

11165.1. (a) (1) (A) (i) A health care practitioner authorized to prescribe, order, administer, furnish, or dispense Schedule II, Schedule III, or Schedule IV controlled substances pursuant to Section 11150 shall, before July 1, 2016, or upon receipt of a federal Drug Enforcement Administration (DEA) registration, whichever occurs later, submit an application developed by the department to obtain approval to access information regarding the controlled substance history of a patient through an online Internet Web portal that is maintained by the department, or through an authorized health information technology system, and, upon approval, the department shall release to that practitioner, through an online Internet Web portal or an authorized health information technology system, the electronic history of controlled substances dispensed to an individual under his or her care based on data contained in the CURES Prescription Drug Monitoring Program (PDMP).

(ii) A pharmacist shall, before July 1, 2016, or upon licensure, whichever occurs later, submit an application developed by the department to obtain approval to access information online regarding the controlled substance history of a patient that is stored on the Internet and maintained within the department, and, upon approval, the department shall release to that pharmacist the electronic history of controlled substances dispensed to an individual under his or her care based on data contained in the CURES PDMP.

(B) An application may be denied, or a subscriber may be suspended, for reasons which include, but are not limited to, the following:

(i) Materially falsifying an application for a subscriber.

(ii) Failure to maintain effective controls for access to the patient activity report.

(iii) Suspended or revoked federal DEA registration.

(iv) Any subscriber who is arrested for a violation of law governing controlled substances or any other law for which the possession or use of a controlled substance is an element of the crime.

(v) Any subscriber accessing information for any other reason than caring for his or her patients.

(C) Any authorized subscriber shall notify the department within 30 days of any changes to the subscriber account.

(D) A health information technology system may establish an integration with and submit queries to the CURES database on either a user-initiated basis or an automated basis if the system can certify all of the following:

(i) The health information technology system can establish it has been authorized to query the CURES database on behalf of an authorized health care practitioner on either a user-initiated basis, an automated basis, or both, for purposes of delivering patient data from the CURES database to assist an authorized health care practitioner with evaluating the need for medical or pharmaceutical treatment or providing medical or pharmaceutical treatment to a patient for whom a health care practitioner is providing or has provided care.

(ii) The health information technology system will not use or disclose data received from the CURES database for any purpose other than delivering the data to an authorized health care

practitioner or performing data processing activities that may be necessary to enable this delivery.

(iii) The health information technology system authenticates the identity of any authorized health care practitioner initiating queries to the CURES database on either a user-initiated basis or an automated basis ~~and maintains an audit trail documenting this authentication.~~ *and, at the time of the query to the CURES database, the health information technology system submits the following data regarding the query to CURES:*

(I) The date of the query.

(II) The time of the query.

(III) The first and last name of the patient queried.

(IV) The date of birth of the patient queried.

(V) The identification of the CURES user for whom the system is making the query.

(iv) The health information technology system meets applicable patient privacy and information security requirements of state and federal law.

(E) The department may, in its discretion, determine whether to establish a direct system integration between one or more health information technology systems and the CURES database, or whether to develop a gateway system to which multiple health information technology systems can establish an integration for purposes of accessing the CURES database.

(F) The department may require an entity that operates a health information technology system to enter into a memorandum of understanding or other agreement that sets forth terms and conditions with which the entity shall comply, including, but not limited to, all of the following:

(i) Paying a reasonable fee to cover the cost of establishing and maintaining integration with the CURES database.

(ii) Enforcement mechanisms for failure to comply with oversight or audit activities by the department, up to and including termination of access to the CURES database.

(iii) Any other term or condition that the department may determine in its reasonable discretion is necessary to carry out the intent of this section.

(2) A health care practitioner authorized to prescribe, order, administer, furnish, or dispense Schedule II, Schedule III, or Schedule IV controlled substances pursuant to Section 11150 or

a pharmacist shall be deemed to have complied with paragraph (1) if the licensed health care practitioner or pharmacist has been approved to access the CURES database through the process developed pursuant to subdivision (a) of Section 209 of the Business and Professions Code.

(b) Any request for, or release of, a controlled substance history pursuant to this section shall be made in accordance with guidelines developed by the department.

(c) In order to prevent the inappropriate, improper, or illegal use of Schedule II, Schedule III, or Schedule IV controlled substances, the department may initiate the referral of the history of controlled substances dispensed to an individual based on data contained in CURES to licensed health care practitioners, pharmacists, or both, providing care or services to the individual. An authorized health care practitioner may use a health information technology system, either on a user-initiated basis or an automated basis, to initiate the referral of the history of controlled substances dispensed to an individual based on data contained in CURES to other licensed health care practitioners, pharmacists, or both.

(d) The history of controlled substances dispensed to an individual based on data contained in CURES that is received by a practitioner or pharmacist from the department pursuant to this section is medical information subject to the provisions of the Confidentiality of Medical Information Act contained in Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code.

(e) Information concerning a patient's controlled substance history provided to a prescriber or pharmacist pursuant to this section shall include prescriptions for controlled substances listed in Sections 1308.12, 1308.13, and 1308.14 of Title 21 of the Code of Federal Regulations.

(f) A health care practitioner, pharmacist, and any person acting on behalf of a health care practitioner or pharmacist, when acting with reasonable care and in good faith, is not subject to civil or administrative liability arising from any false, incomplete, inaccurate, or misattributed information submitted to, reported by, or relied upon in the CURES database or for any resulting failure of the CURES database to accurately or timely report that information.

(g) For purposes of this section, the following terms have the following meanings:

(1) "Automated basis" means using predefined criteria established or approved by a health care practitioner to trigger an automated query to the CURES database, which can be attributed to a specific health care practitioner by an audit trail in the health information technology system.

(2) "Department" means the Department of Justice.

(3) "Health information technology system" means an information processing application using hardware and software for the storage, retrieval, sharing of or use of patient data for communication, decisionmaking, coordination of care, or the quality, safety, or efficiency of the practice of medicine or delivery of health care services, including, but not limited to, electronic medical record applications, health information exchange systems, or other interoperable clinical or health care information system.

(4) "User-initiated basis" means an authorized health care practitioner has taken an action to initiate the query to the CURES database, such as clicking a button, issuing a voice command, or taking some other action that can be attributed to a specific health care practitioner by an audit trail in the health information technology system.

~~SEC. 2. Section 11165.2 of the Health and Safety Code is amended to read:~~

~~11165.2. (a) The Department of Justice may conduct audits of the CURES Prescription Drug Monitoring Program system and its users, including any authorized health information technology system, as defined in subdivision (g) of Section 11165.1, integrated with the CURES database.~~

~~(b) The Department of Justice may establish, by regulation, a system for the issuance to a CURES Prescription Drug Monitoring Program subscriber of a citation which may contain an order of abatement, or an order to pay an administrative fine assessed by the Department of Justice if the subscriber is in violation of any provision of this chapter or any regulation adopted by the Department of Justice pursuant to this chapter.~~

~~(c) The system shall contain the following provisions:~~

~~(1) Citations shall be in writing and shall describe with particularity the nature of the violation, including specific reference to the provision of law or regulation of the department determined to have been violated.~~

~~(2) Whenever appropriate, the citation shall contain an order of abatement establishing a reasonable time for abatement of the violation.~~

~~(3) In no event shall the administrative fine assessed by the department exceed two thousand five hundred dollars ($2,500) for each violation. In assessing a fine, due consideration shall be given to the appropriateness of the amount of the fine with respect to such factors as the gravity of the violation, the good faith of the subscribers, and the history of previous violations.~~

~~(4) An order of abatement or a fine assessment issued pursuant to a citation shall inform the subscriber that if the subscriber desires a hearing to contest the finding of a violation, a hearing shall be requested by written notice to the CURES Prescription Drug Monitoring Program within 30 days of the date of issuance of the citation or assessment. Hearings shall be held pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.~~

~~(5) In addition to requesting a hearing, the subscriber may, within 10 days after service of the citation, request in writing an opportunity for an informal conference with the department regarding the citation. At the conclusion of the informal conference, the department may affirm, modify, or dismiss the citation, including any fine levied or order of abatement issued. The decision shall be deemed to be a final order with regard to the citation issued, including the fine levied or the order of abatement which could include permanent suspension to the system, a monetary fine, or both, depending on the gravity of the violation. However, the subscriber does not waive its right to request a hearing to contest a citation by requesting an informal conference. If the citation is affirmed, a formal hearing may be requested within 30 days of the date the citation was affirmed. If the citation is dismissed after the informal conference, the request for a hearing on the matter of the citation shall be deemed to be withdrawn. If the citation, including any fine levied or order of abatement, is modified, the citation originally issued shall be considered withdrawn and a new citation issued. If a hearing is requested for a subsequent citation, it shall be requested within 30 days of service of that subsequent citation.~~

~~(6) Failure of a subscriber to pay a fine within 30 days of the date of assessment or comply with an order of abatement within~~

~~the fixed time, unless the citation is being appealed, may result in disciplinary action taken by the department. If a citation is not contested and a fine is not paid, the subscriber account will be terminated:~~

~~(A) A citation may be issued without the assessment of an administrative fine.~~

~~(B) Assessment of administrative fines may be limited to only particular violations of law or department regulations.~~

~~(d) Notwithstanding any other provision of law, if a fine is paid to satisfy an assessment based on the finding of a violation, payment of the fine shall be represented as a satisfactory resolution of the matter for purposes of public disclosure.~~

~~(e) Administrative fines collected pursuant to this section shall be deposited in the CURES Program Special Fund, available upon appropriation by the Legislature. These special funds shall provide support for costs associated with informal and formal hearings, maintenance, and updates to the CURES Prescription Drug Monitoring Program.~~

~~(f) The sanctions authorized under this section shall be separate from, and in addition to, any other administrative, civil, or criminal remedies; however, a criminal action may not be initiated for a specific offense if a citation has been issued pursuant to this section for that offense, and a citation may not be issued pursuant to this section for a specific offense if a criminal action for that offense has been filed.~~

~~(g) Nothing in this section shall be deemed to prevent the department from serving and prosecuting an accusation to suspend or revoke a subscriber if grounds for that suspension or revocation exist.~~

~~SEC. 3.~~

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that information in the CURES database is available to prescribing physicians so they may prevent the dangerous abuse of prescription drugs and to safeguard the health

and safety of the people of this state, it is necessary that this act take effect immediately.

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BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
May 10, 2017

BILL ANALYSIS

AUTHOR:	Reyes with nine Assembly coauthors and one Senate coauthor	**BILL NUMBER:**	AB 44
SPONSOR:		**BILL STATUS:**	Assembly Committee on Appropriations
SUBJECT:	Workers' compensation: medical treatment: terrorist attacks: workplace violence.	**DATE LAST AMENDED:**	April 20, 2017

SUMMARY:
Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, to compensate an employee for injuries sustained in the course of his or her employment. Existing law requires every employer to establish a utilization review process, and defines "utilization review" as utilization review or utilization management functions that prospectively, retrospectively, or concurrently review and approve, modify, or deny, based in whole or in part on medical necessity to cure and relieve, treatment recommendations by physicians, prior to, retrospectively, or concurrent with providing medical treatment services. Existing law also provides for an independent medical review process to resolve disputes over utilization review decisions, as defined.

Existing workers' compensation law generally requires employers to secure the payment of workers' compensation, including medical treatment, for injuries incurred by their employees that arise out of, or in the course of, employment. Existing law prohibits aggregate disability payments for a single injury occurring on or after April 19, 2004, causing temporary disability from extending for more than 104 compensable weeks within a period of 2 years from the date of commencement of temporary disability payment. Existing law permits aggregate disability payments for certain injuries or conditions including, but not limited to, amputations, severe burns, and high-velocity eye injuries, to be made for not more than 240 compensable weeks within a period of 5 years from the date of the injury.

ANALYSIS:
This bill would exempt medical treatment for employees or first responders who sustain physical or psychological injury as a result of an act of terrorism or violence in the workplace from the utilization review process and the independent medical review process, and would provide for an expedited proceeding before the Workers' Compensation Appeals Board to resolve disputes regarding treatment.

The bill would also apply retroactively to the employees and first responders injured in the San Bernardino terrorist attack of December 2, 2015, and any other employees or first responders injured by an act of terrorism or violence in the workplace that occurs prior to January 1, 2018.

This bill would add physical or psychological injury arising from an act of terrorism or violence in the workplace to the list of injuries on conditions for which aggregate disability payments may be made for not more than 240 compensable weeks within a period of 5 years from the date of injury.

Amended analysis as of 4/6:
This bill would define "Acts of terrorism" as "The unlawful use of force and violence against persons or property to intimidate or coerce a government, the civilian population, or any segment thereof, in furtherance of political or social objectives." and "Violence in the workplace" as "An assault against a person with a firearm or other dangerous weapon that results in serious bodily harm or psychological injury." for purposes of this section of the Labor Code.

Amended analysis as of 4/20:
The bill as amended deletes the above existing law/proposed revisions language.

Under existing law, an employer must provide reasonably required treatments, including, but not limited to, medical and surgical treatment, to cure or relieve an employee's injuries sustained in the course of his or her employment.

This bill would require employers to provide immediately accessible advocacy services to employees injured in the course of employment by an act of domestic terrorism, as defined, when the Governor has declared a state of emergency due to that act of domestic terrorism.

BOARD POSITION: Watch (2/8/17)

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Not previously considered

SUPPORT:
American Federation of State, County and Municipal Employees (AFSCME), AFL-CIO
California Applicants Attorneys Association (CAAA)
California Physical Therapy Association (CPTA)
California Professional Firefighters (CPF)
California Society of Industrial Medicine and Surgery
Los Angeles County Professional Peace Officers Association
Police Officers Research Association of California (PORAC)
San Diego County Court Employees Association
San Luis Obispo County Employees Association
SMUD Employees

OPPOSE:
Acclamation Insurance Management Services (AIMS)
Allied Managed Care (AMC)
American Insurance Association
Association of California of Insurance Companies
California Association of Joint Powers Authorities (CAJPA)
California Chamber of Commerce

California Coalition on Workers' Compensation
League of California Cities
National Association of Mutual Insurance Companies

AMENDED IN ASSEMBLY APRIL 20, 2017

AMENDED IN ASSEMBLY APRIL 6, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL No. 44

Introduced by Assembly Member Reyes
(Coauthors: Assembly Members Aguiar-Curry, Chu, Cooley, Gipson, Holden, Kalra, Limón, Medina, Rodriguez, Rubio, Mark Stone, and Voepel)
(Coauthor: Senator Leyva)

December 5, 2016

An act to ~~amend Section 4656 of, and to add Section 4610.7 to,~~ *add Section 4600.05 to* the Labor Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

AB 44, as amended, Reyes. Workers' compensation: medical treatment: terrorist attacks: workplace violence.

Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, to compensate an employee for injuries sustained in the course of his or her employment. Under existing law, an employer must provide reasonably required treatments, including, but not limited to, medical and surgical treatment, to cure or relieve an employee's injuries sustained in the course of his or her employment.

This bill would require employers to provide immediately accessible advocacy services to employees injured in the course of employment by an act of domestic terrorism, as defined, when the Governor has declared a state of emergency due to that act of domestic terrorism.

Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, to compensate an employee for injuries sustained in the course of his or her employment. Existing law requires every employer to establish a utilization review process, and defines "utilization review" as utilization review or utilization management functions that prospectively, retrospectively, or concurrently review and approve, modify, or deny, based in whole or in part on medical necessity to cure and relieve, treatment recommendations by physicians, prior to, retrospectively, or concurrent with providing medical treatment services. Existing law also provides for an independent medical review process to resolve disputes over utilization review decisions, as defined.

This bill would exempt medical treatment for employees or first responders who sustain physical or psychological injury as a result of an act of terrorism or violence in the workplace, as defined, from the utilization review process and the independent medical review process, and would provide for an expedited proceeding before the Workers' Compensation Appeals Board to resolve disputes regarding treatment. The bill would also apply retroactively to the employees and first responders injured in the San Bernardino terrorist attack of December 2, 2015, and any other employees or first responders injured by an act of terrorism or violence in the workplace that occurs prior to January 1, 2018.

Existing workers' compensation law generally requires employers to secure the payment of workers' compensation, including medical treatment, for injuries incurred by their employees that arise out of, or in the course of, employment. Existing law prohibits aggregate disability payments for a single injury occurring on or after April 19, 2004, causing temporary disability from extending for more than 104 compensable weeks within a period of 2 years from the date of commencement of temporary disability payment. Existing law permits aggregate disability payments for certain injuries or conditions including, but not limited to, amputations, severe burns, and high-velocity eye injuries, to be made for not more than 240 compensable weeks within a period of 5 years from the date of the injury.

This bill would add physical or psychological injury arising from an act of terrorism or violence in the workplace, as defined, to the list of injuries or conditions for which aggregate disability payments may be made for not more than 240 compensable weeks within a period of 5 years from the date of injury.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 4600.05 is added to the Labor Code, to read:

4600.05. (a) All employers, as defined in Section 3300, shall provide immediately accessible advocacy services for employees injured in the course of employment by an act of domestic terrorism, as defined in Section 2331 of Title 18 of the United States Code, to assist injured employees in obtaining medical treatment and to assist providers of medical services in seeking authorization and payment of medical treatment. These advocacy services may be provided by the employer, the employer's insurer, or the employer's claims administrator.

(b) This section shall apply only when the Governor has declared a state of emergency pursuant to subdivision (b) of Section 8558 of the Government Code in connection with the act of domestic terrorism.

(c) Nothing in this section is intended to alter the conditions for compensability of an injury, as defined in Section 3600.

(d) The administrative director shall adopt regulations to implement this section.

~~SECTION 1. Section 4610.7 is added to the Labor Code, to read:~~

~~4610.7. (a) Sections 4610 and 4610.5 shall not apply to medical treatment for an employee or first responder who sustains physical or psychological injury as a result of an act of terrorism or violence in the workplace.~~

~~(b) Disputes regarding treatment under this section shall be decided in an expedited proceeding, within 30 days after the declaration of readiness is filed, with a determination as to the rights of the parties made and served by the Workers' Compensation Appeals Board.~~

~~(c) This section shall apply retroactively to the employees and first responders injured in the San Bernardino terrorist attack of December 2, 2015, and any other employees or first responders injured by an act of terrorism or violence in the workplace that occurred prior to January 1, 2018.~~

~~(d) For purposes of this section, the following terms have the following meanings:~~

~~(1) "Act of terrorism" is the unlawful use of force and violence against persons or property to intimidate or coerce a government, the civilian population, or any segment thereof, in furtherance of political or social objectives.~~

~~(2) "Violence in the workplace" means an assault against a person with a firearm or other dangerous weapon that results in serious bodily harm or psychological injury.~~

~~SEC. 2. Section 4656 of the Labor Code is amended to read:~~

~~4656. (a) Aggregate disability payments for a single injury occurring prior to January 1, 1979, causing temporary disability shall not extend for more than 240 compensable weeks within a period of five years from the date of the injury.~~

~~(b) Aggregate disability payments for a single injury occurring on or after January 1, 1979, and prior to April 19, 2004, causing temporary partial disability shall not extend for more than 240 compensable weeks within a period of five years from the date of the injury.~~

~~(c) (1) Aggregate disability payments for a single injury occurring on or after April 19, 2004, causing temporary disability shall not extend for more than 104 compensable weeks within a period of two years from the date of commencement of temporary disability payment.~~

~~(2) Aggregate disability payments for a single injury occurring on or after January 1, 2008, causing temporary disability shall not extend for more than 104 compensable weeks within a period of five years from the date of injury.~~

~~(3) Notwithstanding paragraphs (1) and (2), for an employee who suffers from the following injuries or conditions, aggregate disability payments for a single injury occurring on or after April 19, 2004, causing temporary disability shall not extend for more than 240 compensable weeks within a period of five years from the date of the injury:~~

~~(A) Acute and chronic hepatitis B.~~

~~(B) Acute and chronic hepatitis C.~~

~~(C) Amputations.~~

~~(D) Severe burns.~~

~~(E) Human immunodeficiency virus (HIV).~~

~~(F) High-velocity eye injuries.~~

~~(G) Chemical burns to the eyes.~~

~~(H) Pulmonary fibrosis.~~

~~(I) Chronic lung disease.~~

~~(J) Physical or psychological injury arising from an act of terrorism or violence in the workplace.~~

~~(4) For purposes of this subdivision, the following terms have the following meanings:~~

~~(A) "Act of terrorism" is the unlawful use of force and violence against persons or property to intimidate or coerce a government, the civilian population, or any segment thereof, in furtherance of political or social objectives.~~

~~(B) "Violence in the workplace" means an assault against a person with a firearm or other dangerous weapon that results in serious bodily harm or psychological injury.~~

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BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
May 10, 2017

BILL ANALYSIS

AUTHOR:	Cooper	**BILL NUMBER:**	AB 334
SPONSOR:	California Clinic Forensic Medical Training Center	**BILL STATUS:**	Assembly Committee on Appropriations
SUBJECT:	Sexual assault	**DATE LAST AMENDED:**	April 27, 2017

SUMMARY:
As introduced 2/7:
The relevant laws for the Board are:
1. Existing law requires a health practitioner employed in a health facility, clinic, physician's office, local or state public health department, or a clinic or other type of facility operated by a local or state public health department who, in his or her professional capacity or within the scope of his or her employment, provides medical services for a physical condition to a patient whom he or she knows or reasonably suspects is a person suffering from a physical injury caused by a firearm or that is the result of domestic violence, to immediately make a report. A violation of this requirement is a misdemeanor.

2. Existing law establishes minimum standards for the examination and treatment of victims of sexual assault or attempted sexual assault, including child molestation, and the collection and preservation of evidence from those crimes.

3. Existing law prohibits costs incurred by a qualified health care professional, hospital, or other emergency medical facility for the medical evidentiary examination portion of the examination of the victim of a sexual assault, as described in a specified protocol, when the examination is performed as specified, from being charged directly or indirectly to the victim of the assault.

Existing law limits the amount that may be charged by a qualified health care professional, hospital, or other emergency medical facility to perform the medical evidentiary examination portion of a medical examination of a victim of a sexual assault to $300.

ANALYSIS:

As introduced 2/7:
1. This bill would make that requirement applicable if the patient discloses that he or she was a victim of a sexual assault, as specified, including rape, assault with the intent to commit those specified crimes, or an attempt to commit any of those crimes.

2. This bill, among other changes, would authorize a licensed hospital or licensed health care practitioner to perform an examination if an alleged victim of sexual assault is unconscious or incapacitated due to drugs, alcohol, head trauma, or a medical disease or condition, or due to a mental disorder or condition, and a reasonable person would conclude that exigent circumstances justify conducting a forensic examination and collecting appropriate evidence. The bill would make other changes relating to the conduct of sexual assault examinations and the storage of related records.

3. This bill would make that provision applicable to costs incurred by a clinic or sexual assault forensic medical examination team.

The bill would repeal the provision limiting the amount that may be charged to $300 and would instead provide that the cost of a sexual assault forensic medical evidentiary examination requested by a sexual assault victim who is choosing not to participate in a criminal investigation shall be treated as a local cost and charged to the local law enforcement agency in whose jurisdiction the alleged offense occurred. The bill would further require that the costs of the examination be reimbursed to the local law enforcement agency by the Office of Emergency Services in an amount not to exceed $1,000.

Amended analysis as of 4/18:
The bill now no longer addresses 1., above.

This bill omits the more specific provisions of 2., above.

3. This bill would include nurse practitioners and physician's assistants within the definition of "qualified health care professionals" who can serve on a sexual assault forensic medical examination team.

The bill would also add a timeframe of sixty days to the provision that the Office of Emergency Services reimburse the local law enforcement agency in whose jurisdiction the alleged offense occurred. The cost of the exam is to be at the locally negotiated rate and not to exceed $1,000.00.

Amended analysis as of 4/27:
3. This bill would make that prohibition on charging a victim of sexual assault applicable to costs incurred by a clinic or sexual assault forensic medical examination team, and would include nurse practitioners and physician's assistants as qualified health care professionals.

The bill would repeal the provision limiting the amount that may be charged to perform the medical evidentiary examination portion of a medical examination to $300.

The bill would further require that the costs of the examination for a sexual assault victim who chooses not to participate in a criminal investigation to be reimbursed to the local law enforcement agency by the Office of Emergency Services at the locally negotiated rate in an amount not to exceed $1,000.

BOARD POSITION: Not previously considered

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Not previously considered

SUPPORT
California Clinic Forensic Medical Training Center (sponsor)
One individual

Support to prior versions of the bill
California District Attorneys Association
Consumer Attorneys of California
Enloe Medical Center
Peace Officers Research Association of California
Plumas District Hospital
Redwood Children's Center SAART
San Gabriel Valley Medical Center SART
Santa Clara Valley Medical Center SART
Santa Cruz County Sheriff's Office SART
Two individuals

OPPOSE:
California Coalition Against Sexual Assault

AMENDED IN ASSEMBLY APRIL 27, 2017

AMENDED IN ASSEMBLY APRIL 18, 2017

AMENDED IN ASSEMBLY MARCH 28, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL No. 334

Introduced by Assembly Member Cooper

February 7, 2017

An act to add Section 340.16 to the Code of Civil Procedure, and to amend Sections 13823.5, 13823.11, and 13823.95 of the Penal Code, relating to sexual assault.

LEGISLATIVE COUNSEL'S DIGEST

AB 334, as amended, Cooper. Sexual assault.

Existing law provides that in a civil action for recovery of damages suffered as a result of domestic violence, the time for commencement of the action shall be the later of within 3 years from the date of the last act of domestic violence by the defendant against the plaintiff or within 3 years from the date the plaintiff discovers or reasonably should have discovered that an injury or illness resulted from an act of domestic violence by the defendant against the plaintiff.

This bill would set the time for commencement of any civil action for recovery of damages suffered as a result of sexual assault, as defined, to the later of within 10 years from the date of the last act, attempted act, or assault with intent to commit an ~~act~~ *act,* of sexual assault by the defendant against the plaintiff or within 3 years from the date the plaintiff discovers or reasonably should have discovered that an injury or illness resulted from an act, attempted act, or assault with intent to

commit an ~~act~~ *act*, of sexual assault by the defendant against the plaintiff.

Existing law establishes minimum standards for the examination and treatment of victims of sexual assault or attempted sexual assault, including child molestation and the collection and preservation of evidence from those crimes.

This bill, among other changes, would make changes relating to the conduct of sexual assault examinations and the storage of related records.

Existing law prohibits costs incurred by a qualified health care professional, hospital, or other emergency medical facility for the medical evidentiary examination portion of the examination of the victim of a sexual assault, as described in a specified protocol, when the examination is performed as specified, from being charged directly or indirectly to the victim of the assault. Existing law limits the amount that may be charged by a qualified health care professional, hospital, or other emergency medical facility to perform the medical evidentiary examination portion of a medical examination of a victim of a sexual assault to $300.

This bill would make that ~~provision~~ *prohibition on charging a victim of sexual assault* applicable to costs incurred by a clinic or sexual assault forensic medical examination team, and would include nurse practitioners and physician's assistants as qualified health care professionals. The bill would repeal the provision limiting the amount that may be charged to ~~$300 and would instead provide that the cost of a sexual assault forensic medical evidentiary examination requested by a sexual assault victim who is choosing not to participate in a criminal investigation shall be treated as a local cost and charged to, and reimbursed within 60 days to, the local law enforcement agency in whose jurisdiction the alleged offense occurred.~~ *$300*. The bill would further require that the costs of the examination *for a sexual assault victim who chooses not to participate in a criminal investigation to* be reimbursed to the local law enforcement agency by the Office of Emergency Services at the locally negotiated rate in an amount not to exceed $1,000. ~~By imposing a higher level of service on local law enforcement agencies, the bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.~~

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: ~~yes~~ *no*.

The people of the State of California do enact as follows:

SECTION 1. Section 340.16 is added to the Code of Civil Procedure, to read:

340.16. (a) In any civil action for recovery of damages suffered as a result of sexual assault, the time for commencement of the action shall be the later of the following:

(1) Within 10 years from the date of the last act, attempted act, or assault with the intent to commit an act of sexual assault by the defendant against the plaintiff.

(2) Within three years from the date the plaintiff discovers or reasonably should have discovered that an injury or illness resulted from an act, attempted act, or assault with the intent to commit an ~~act~~ *act*, of sexual assault by the defendant against the plaintiff.

(b) As used in this section, "sexual assault" means *any of* the crimes described in Section 243.4, 261, 262, 264.1, 286, 288a, or 289 of the Penal Code, assault with the intent to commit any of those crimes, or an attempt to commit any of those crimes.

(c) This section ~~shall apply~~ *applies* to any action commenced on or after January 1, 2018, ~~and~~ to any action filed prior to January 1, 2018, and still pending on that date, ~~including~~ *and to* any action or causes of action that would have been barred by the laws, including the period of limitations, in effect prior to January 1, 2018, thereby reviving those causes of action which had lapsed or technically expired under the law existing prior to January 1, 2018. Nothing in this section is intended to revive actions or causes of action as to which there has been a final adjudication on the merits prior to January 1, 2018. Termination of a prior action on the basis of the statute of limitations does not constitute a final adjudication on the merits.

SEC. 2. Section 13823.5 of the Penal Code is amended to read:

13823.5. (a) The Office of Emergency Services, with the assistance of the advisory committee established pursuant to

Section 13836, shall establish a protocol for the examination and treatment of victims of sexual assault and attempted sexual assault, including child molestation, and the collection and preservation of evidence therefrom. The protocol shall contain recommended methods for meeting the standards specified in Section 13823.11.

(b) In addition to the protocol, the Office of Emergency Services shall develop informational guidelines, containing general reference information on evidence collection and examination of victims of, and psychological and medical treatment for victims of, sexual assault and attempted sexual assault, including child molestation.

In developing the protocol and the informational guidelines, the Office of Emergency Services and the advisory committee shall seek the assistance and guidance of organizations assisting victims of sexual assault; qualified health care professionals, criminalists, and administrators who are familiar with emergency room procedures; victims of sexual assault; and law enforcement officials.

(c) The Office of Emergency Services, in cooperation with the State Department of Public Health and the Department of Justice, shall adopt a standard and a complete form or forms for the recording of medical and physical evidence data disclosed by a victim of sexual assault or attempted sexual assault, including child molestation.

Each qualified health care professional who conducts an examination for evidence of a sexual assault or an attempted sexual assault, including child molestation, shall use the standard form or forms adopted pursuant to this section, and shall make those observations and perform those tests as may be required for recording of the data required by the form. The forms shall be subject to the same principles of confidentiality applicable to other medical records.

The Office of Emergency Services shall make copies of the standard form or forms available to every public or private general acute care hospital, as requested.

The standard form shall be used to satisfy the reporting requirements specified in Sections 11160 and 11161 in cases of sexual assault, and may be used in lieu of the form specified in Section 11168 for reports of child abuse.

(d) The Office of Emergency Services shall distribute copies of the protocol and the informational guidelines to every general

acute care hospital, law enforcement agency, and prosecutor's office in the state.

(e) As used in this chapter, "qualified health care professional" means a physician and surgeon currently licensed pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code, or a nurse currently licensed pursuant to Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code and working in consultation with a physician and surgeon who conducts examinations or provides treatment as described in Section 13823.9 in a general acute care hospital or in a physician and surgeon's office, a nurse practitioner currently licensed pursuant to Article 8 (commencing with Section 2834) of Chapter 6 of Division 2 of the Business and Professions Code, or a physician assistant licensed pursuant to Chapter 7.7 (commencing with Section 3500) of Division 2 of the Business and Professions Code.

SEC. 3. Section 13823.11 of the Penal Code is amended to read:

13823.11. The minimum standards for the examination and treatment of victims of sexual assault or attempted sexual assault, including child molestation and the collection and preservation of evidence therefrom include all of the following:

(a) Law enforcement authorities shall be notified.

(b) In conducting the physical examination, the outline indicated in the form adopted pursuant to subdivision (c) of Section 13823.5 shall be followed.

(c) Consent for a physical examination, treatment, and collection of evidence shall be obtained.

(1) Consent to an examination for evidence of sexual assault shall be obtained prior to the examination of a victim of sexual assault and shall include separate written documentation of consent to each of the following:

(A) Examination for the presence of injuries sustained as a result of the assault.

(B) Examination for evidence of sexual assault and collection of physical evidence.

(C) Photographs of injuries.

(2) Consent to treatment shall be obtained in accordance with the usual policy of the hospital, clinic, or other outpatient setting.

(3) A victim of sexual assault shall be informed that he or she may refuse to consent to an examination for evidence of sexual assault, including the collection of physical evidence, but that a refusal is not a ground for denial of treatment of injuries and for possible pregnancy and sexually transmitted diseases, if the person wishes to obtain treatment and consents thereto.

(4) Pursuant to Chapter 3 (commencing with Section 6920) of Part 4 of Division 11 of the Family Code, a minor may consent to, or withhold consent from, hospital, medical, and surgical care related to a sexual assault, including a sexual assault forensic medical examination, without the consent of a parent or guardian.

(5) In cases of known or suspected child abuse, the consent of the parents or legal guardian is not required. In the case of suspected child abuse and nonconsenting parents, the consent of the local agency providing child protective services or the local law enforcement agency shall be obtained. Local procedures regarding obtaining consent for the examination and treatment of, and the collection of evidence from, children from child protective authorities shall be followed.

(d) A history of sexual assault shall be taken.

The history obtained in conjunction with the examination for evidence of sexual assault shall follow the outline of the form established pursuant to subdivision (c) of Section 13823.5 and shall include all of the following:

(1) A history of the circumstances of the assault.

(2) For a child, any previous history of child sexual abuse and an explanation of injuries, if different from that given by parent or person accompanying the child.

(3) Physical injuries reported.

(4) Sexual acts reported, whether or not ejaculation is suspected, and whether or not a condom or lubricant was used.

(5) Record of relevant medical history.

(e) (1) If indicated by the history of contact, a female victim of sexual assault shall be provided with the option of postcoital contraception by a physician or other health care provider.

(2) Postcoital contraception shall be dispensed by a physician or other health care provider upon the request of the victim.

(f) (1) Each adult and minor victim of sexual assault who consents to a forensic medical examination for collection of

evidentiary material shall have a physical examination which includes, but is not limited to, all of the following:

(A) Inspection of the clothing, body, and external genitalia for injuries and foreign materials.

(B) Examination of the mouth, vagina, cervix, penis, anus, and rectum, as indicated.

(C) Documentation of injuries and evidence collected.

(2) Prepubertal children shall not have internal vaginal or anal examinations unless absolutely necessary. This *prohibition* does not preclude careful collection of evidence using a swab.

(g) The collection of physical evidence shall conform to the following procedures:

(1) Each victim of sexual assault who consents to an examination for collection of evidence shall have the following items of evidence collected, except where he or she specifically objects:

(A) Clothing worn during the assault.

(B) Foreign materials revealed by an examination of the clothing, body, external genitalia, and pubic hair combings.

(C) Swabs and slides from the mouth, vagina, rectum, and penis, as indicated, to determine the presence or absence of semen.

(D) If indicated by the history of contact, the victim's urine and blood sample, for toxicology purposes, to determine if drugs or alcohol were used in connection with the assault. Toxicology results obtained pursuant to this paragraph shall not be admissible in any criminal or civil action or proceeding against any victim who consents to the collection of physical evidence pursuant to this paragraph. Except for purposes of prosecuting or defending the crime or crimes necessitating the examination specified by this section, any toxicology results obtained pursuant to this paragraph shall be kept confidential, may not be further disclosed, and shall not be required to be disclosed by the victim for any purpose not specified in this paragraph. The victim shall specifically be informed of the immunity and confidentiality safeguards provided ~~herein.~~ *by this code.*

(2) Each victim of sexual assault who ~~consents, expressly or pursuant to paragraph (6) of subdivision (c),~~ *consents* to an examination for the collection of evidence may have reference specimens taken, except ~~when~~ *if* he or she specifically objects thereto. A reference specimen is a standard from which to obtain baseline information and retain for DNA comparison and analysis.

Reference specimens may also be collected at a later time if they are needed. These specimens shall be taken in accordance with the standards of the local criminalistics laboratory.

(3) A baseline gonorrhea culture, and syphilis serology, shall be taken, if indicated by the history of contact. Specimens for a pregnancy test shall be taken, if indicated by the history of contact and the age of the victim. Baseline testing for sexually transmitted infections is relevant for children and may be forensically indicated for nonsexually active adults, and persons with disabilities or residing in long-term care facilities. In sexually active adults, testing for sexually transmitted infection for forensic purposes is not indicated. Medical indications for sexually transmitted infection testing are not part of the forensic medical examination.

(4) (A) If indicated by the history of contact, a female victim of sexual assault shall be provided with the option of postcoital contraception by a physician or other health care provider.

(B) Postcoital contraception shall be dispensed by a physician or other health care provider upon the request of the victim.

(5) For victims of sexual assault with an assault history of strangulation, best practices shall be followed for a complete physical examination and diagnostic testing to prevent adverse health outcomes or morbidity.

(6) A sexual assault forensic medical examiner shall be referred to as a SAFE, and shall be trained on standardized sexual assault forensic medical curriculum consistent with Sections 13823.5 to 13823.11, inclusive.

(h) Preservation and disposition of physical evidence shall conform to the following procedures:

(1) All swabs and slides shall be air-dried prior to packaging.

(2) All items of evidence including laboratory specimens shall be clearly labeled as to the identity of the source and the identity of the person collecting them.

(3) The evidence shall have a form attached which documents its chain of custody and shall be properly sealed.

(4) The evidence shall be turned over to the proper law enforcement agency.

(5) (A) Sexual assault forensic medical records shall only be released as required by law.

(B) Procedures for the storage of sexual assault forensic reports shall ensure the highest level of confidentiality and prevent copying

of these records in response to requests for medical records that are not made in connection with a criminal or juvenile law investigation.

(C) Hospitals, nonprofit organizations, and private businesses that operate sexual assault forensic medical examination teams shall develop and adhere to written protocols and procedures for protecting and maintaining the confidentiality of sexual assault forensic records, and for the proper disposition of these records if the examination program ceases to exist.

SEC. 4. Section 13823.95 of the Penal Code is amended to read:

13823.95. (a) Costs incurred by a qualified health care professional, hospital, clinic, sexual assault forensic medical examination team, or other emergency medical facility for the medical evidentiary examination portion of the examination of the victim of a sexual assault, as described in the protocol developed pursuant to Section 13823.5, when the examination is performed pursuant to Sections 13823.5 and 13823.7, shall not be charged directly or indirectly to the victim of the assault.

(b) Any victim of a sexual assault who seeks a medical evidentiary examination, as that term is used in Section 13823.93, shall be provided with a medical evidentiary examination. No victim of a sexual assault shall be required to participate or to agree to participate in the criminal justice system, either prior to the examination or at any other time.

(c) The cost of a sexual assault medical evidentiary examination performed by a qualified health care professional, hospital, or other emergency medical facility for a victim of a sexual assault shall be treated as a local cost and charged to, and reimbursed within 60 days ~~to,~~ *by,* the local law enforcement agency in whose jurisdiction the alleged offense was committed; provided, however, that the local law enforcement agency may seek reimbursement, as provided in subdivision (d), for the cost of conducting the medical evidentiary examination portion of a medical examination of a sexual assault victim who does not participate in the criminal justice system.

(d) The cost of a sexual assault forensic medical evidentiary examination requested by a sexual assault victim who is choosing not to participate in a criminal investigation shall be treated as a local cost and charged to and reimbursed within 60 days ~~to~~ *by* the

local law enforcement agency in whose jurisdiction the alleged offense occurred. The costs of the examination shall be reimbursed to the local law enforcement agency by the Office of Emergency Services at the locally negotiated rate, in an amount not to exceed one thousand dollars ($1,000). The Office of Emergency Services shall use the discretionary funds from federal grants awarded to the agency pursuant to the federal Violence Against Women and Department of Justice Reauthorization Act of 2005 and the federal Violence Against Women Reauthorization Act of 2013 through the federal Office ~~of~~ *on* Violence Against Women, specifically, the STOP (Services, Training, Officers, and Prosecutors) Violence Against Women Formula Grant Program, to cover the cost of the medical evidentiary examination portion of a medical examination of a sexual assault victim.

~~SEC. 5. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.~~

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BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
May 10, 2017

BILL ANALYSIS

AUTHOR:	Arambula	**BILL NUMBER:**	AB 882
SPONSOR:	California School Nurses Organization	**BILL STATUS:**	Assembly Committee on Appropriations
SUBJECT:	Pupil health care services: School Nursing and Pupil Health Care Services Task Force	**DATE LAST AMENDED:**	April 4, 2017

SUMMARY:
Existing law requires the governing board of a school district to give diligent care to the health and physical development of pupils, and authorizes the governing board of a school district to employ properly certified persons for that work. Existing law authorizes a school nurse, subject to approval by the governing board of the school district, to perform various pupil health care services.

ANALYSIS:
This bill would state the intent of the Legislature that would enact legislation to increase the number of school nurses in every school district in California.

Amended analysis as of 3/23:
This bill removes the intent language and now would establish the School Nursing and Pupil Health Care Services Task Force consisting of 16 members, appointed as specified.

The bill would specify that the main task of the task force shall be to identify model school health care services programs and practices that directly serve pupils that can be used by county offices of education and school districts to provide support and technical assistance to schools within each jurisdiction in order to improve the safety and quality of health care services to pupils.

The bill would require the task force to perform specified actions, including, among others, examining health care funding sources, investigating the billing of pupils' health insurance, and recommending standards of school nursing practices.

Amended analysis as of 4/4:
The bill would address California's public schools, and would increase the members of the task force to eighteen.

The bill would require the State Department of Education to convene one or more meetings of the task force to complete these requirements and to report the results to the Governor and the Legislature on or before January 1, 2019.

BOARD POSITION: Watch (4//5/17)

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Watch (3/8/17)

SUPPORT:
California School Nurses Association (Sponsor)
ABC Unified School District
American Nurses Association/California
California Teachers Association
Children Now
Orange County School Nurses Association
San Joaquin County Office of School Nurses
Numerous individuals

OPPOSE: None on file

AMENDED IN ASSEMBLY APRIL 4, 2017

AMENDED IN ASSEMBLY MARCH 23, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL No. 882

Introduced by Assembly Member Arambula

February 16, 2017

An act to add Article 1.5 (commencing with Section 49420) to Chapter 9 of Part 27 of Division 4 of Title 2 of the Education Code, relating to pupil health care services.

LEGISLATIVE COUNSEL'S DIGEST

AB 882, as amended, Arambula. Pupil health care services: School Nursing and Pupil Health Care Services Task Force.

Existing law requires the governing board of a school district to give diligent care to the health and physical development of pupils, and authorizes the governing board of a school district to employ properly certified persons for that work. Existing law authorizes a school nurse, subject to approval by the governing board of the school district, to perform various pupil health care services.

This bill would establish the School Nursing and Pupil Health Care Services Task Force consisting of ~~16~~ *18* members, appointed as specified. The bill would specify that the main task of the task force shall be to identify model school health care services programs and practices that directly serve pupils that can be used by county offices of education and school districts to provide support and technical assistance to schools within each jurisdiction in order to improve the safety and quality of health care services to pupils. The bill would require the task force to perform specified actions, including, among

others, examining health care funding sources, investigating the billing of pupils' health insurance, and recommending standards of school nursing practices. *The bill would require the State Department of Education to convene one or more meetings of the task force to complete these requirements and to report the results to the Governor and the Legislature on or before January 1, 2019.*

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. (a) The Legislature finds and declares both of the following:

(1) The health care needs of pupils are not being adequately met in California's *public* schools due to a lack of qualified health professionals employed by school districts who have access to local school campuses.

(2) ~~Nurses~~ *School nurses* are uniquely qualified to attend to the primary care of pupils suffering from chronic and acute health conditions that lead to excessive absenteeism from school, to provide case management services that encourage access to health insurance and followup health care services, and to improve Healthcare Effectiveness Data and Information Set measures.

(b) It is the intent of the Legislature that the governing board of each school district and each county superintendent of schools maintain fundamental school health care services at a level that is adequate to accomplish all of the following:

(1) Preserve pupils' ability to learn.

(2) Fulfill existing state requirements and policies regarding pupils' health.

(3) Contain health care costs through preventive programs and education.

SEC. 2. Article 1.5 (commencing with Section 49420) is added to Chapter 9 of Part 27 of Division 4 of Title 2 of the Education Code, to read:

Article 1.5. School Nursing and Pupil Health Care Services Task Force

49420. (a) The School Nursing and Pupil Health Care Services Task Force is hereby established. The main task of the task force shall be to identify model school health care services programs and practices that directly serve pupils that can be used by county offices of education and school districts to provide support and technical assistance to schools within each jurisdiction in order to improve the safety and quality of health care services to pupils in each jurisdiction.

(b) The task force shall consist of ~~16~~ *18* members, appointed as follows:

(1) (A) The Senate Rules Committee shall appoint one member from among the Members of the Senate.

(B) The Speaker of the Assembly shall appoint one member from among the Members of the Assembly.

(2) The Governor shall appoint the following members as follows:

(A) One member who represents special education services.

(B) One member who represents a school district that primarily serves an urban area.

(C) One member who represents a school district that primarily serves a rural region.

(D) One member from the State Department of Health Care Services.

(E) One member from the State Department of Education who is involved in school health.

(F) One member who represents a statewide organization that is an association organized by and for California school nurses.

(G) One member who represents a statewide organization that is a professional association for nurses in this state.

(H) One member who represents classified school employees who work directly with school nurses.

(I) One member who represents a statewide organization that is dedicated to developing school-based health centers.

(J) One member who represents an organization for community clinics that provides health services in California.

(K) One member who represents an organization for private insurers in this state.

(L) One member who is a representative of local health officers.

(M) One member who is a representative of an association organized by and for California teachers.

(N) One member who is a representative of an association composed of parents and teachers intended to facilitate parental participation in the schools.

(O) One member who is a representative of the association that represents school educational leaders in California.

(P) One member who represents the elected officials who govern California's public school districts and county offices of education.

(c) When appointing members to the task force, the Governor shall consider whether the composition of the task force represents diversity in relation to race, ethnicity, language, and disability status.

(d) (1) The State Department of Education shall convene one or more meetings of the task force to complete the requirements of Section 49421 and shall report the results to the Governor and the Legislature on or before January 1, 2019.

(2) A report to be submitted to the Legislature pursuant to paragraph (1) shall be submitted in compliance with Section 9795 of the Government Code.

49421. The School Nursing and Pupil Health Care Services Task Force shall do all of the following:

(a) Examine health care funding sources, including increasing the numbers of schools and school districts who participate in the local educational agency Medi-Cal billing option and the School-Based Administrative Claiming ~~process.~~ *process program.*

(b) Investigate the billing of pupils' health insurance for the costs of providing medically necessary health care services at schools and to determine if schools can supplement the funding received from education sources to fund school health care services.

(c) Recommend sustainable revenue sources for school health care services that could be used to fund required school health screenings and to achieve the level of school nursing services described in Article 2 (commencing with Section 49422), which states the requirements for, roles of, responsibilities of, and services provided by school nurses in California's schools.

(d) Recommend standards of school nursing practices that include outcome measures related to health transformation and academic performance.

(e) Recommend ways to create a Whole School, Whole Community, Whole Child approach and to foster and promote a noncompetitive strategy that is collaborative and that directs an appropriate level of funding to school nursing and school-based health centers.

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BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
May 10, 2017

BILL ANALYSIS

AUTHOR:	Arambula	**BILL NUMBER:**	AB 1048
SPONSOR:	California Medical Association	**BILL STATUS:**	Assembly Committee on Appropriations
SUBJECT:	Health care: pain management and Schedule II drug prescriptions	**DATE LAST AMENDED:**	April 19, 2017

SUMMARY:
This bill was introduced on February 16 as Health facilities: pain management. The bill was amended March 21 with the subject change, above. The section most applicable to the Board is:

Existing law provides for the licensure and regulation of health facilities by the State Department of Public Health.

Existing las requires a health facility to, as a condition of licensure, include pain as an item to be assessed at the same time vital signs are taken and to ensure that pain assessment is performed in a consistent manner that is appropriate to the patient. Violation of these provisions is a crime.

ANALYSIS:
1. This bill would remove the requirement that pain be assessed at the same time as vital signs.

2. The bill would also prohibit a general acute care hospital or acute psychiatric hospital from in any way conditioning or basing executive compensation, as defined, on patient satisfaction measurements for pain management. By creating a new crime, this bill would impose a state-mandated local program.

Amended analysis as of 4/19:
The bill now deletes item 2. of the Analysis, above.

BOARD POSITION: Not previously considered

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Not previously considered

SUPPORT:
California Medical Association (sponsor)
California Hospital Association
Consumer Attorneys of California

OPPOSE: None on file

AMENDED IN ASSEMBLY APRIL 19, 2017

AMENDED IN ASSEMBLY MARCH 21, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL No. 1048

Introduced by Assembly Member Arambula

February 16, 2017

An act to add Section 4052.10 to the Business and Professions Code, and to amend Section 1254.7 ~~of, and to add Section 1254.8 to,~~ *of* the Health and Safety Code, relating to health care.

LEGISLATIVE COUNSEL'S DIGEST

AB 1048, as amended, Arambula. Health care: pain management and Schedule II drug prescriptions.

(1) The Pharmacy Law provides for the licensing and regulation of pharmacists by the California State Board of Pharmacy in the Department of Consumer Affairs. The law specifies the functions pharmacists are authorized to perform, including to administer, orally or topically, drugs and biologicals pursuant to a prescriber's order, and to administer immunizations pursuant to a protocol with a prescriber. A violation of the Pharmacy Law is a crime.

This bill would authorize a pharmacist to dispense a Schedule II controlled substance as a partial fill if requested by the patient or the ~~prescribing physician.~~ *prescriber.* The bill would require the pharmacy to retain the original prescription, with a notation of how much of the prescription has been filled, until the prescription has been fully dispensed, and would impose notification requirements on the pharmacy. The bill would require the pharmacy to collect the copayment, if any, for the entire prescription at the time of the first partial fill and would

prohibit a pharmacy from charging an additional fee, service fee, or a higher rate or copayment for prescriptions that are dispensed as partial fills. By creating a new crime, this bill would impose a state-mandated local program.

(2) Existing law provides for the licensure and regulation of health facilities by the State Department of Public Health. Existing law requires a health ~~facility to,~~ *facility,* as a condition of licensure, *to* include pain as an item to be assessed at the same time vital signs are taken and to ensure that pain assessment is performed in a consistent manner that is appropriate to the patient. ~~Violation of these provisions is a crime.~~

This bill would remove the requirement that pain be assessed at the same time as vital signs. ~~The bill would also prohibit a general acute care hospital or acute psychiatric hospital from in any way conditioning or basing executive compensation, as defined, on patient satisfaction measurements for pain management. By creating a new crime, this bill would impose a state-mandated local program.~~

~~The~~

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 4052.10 is added to the Business and Professions Code, to read:

4052.10. (a) A pharmacist may dispense a Schedule II controlled substance, as listed in Section 11055 of the Health and Safety Code, as a partial fill if requested by the patient or the ~~prescribing physician.~~ *prescriber.*

(b) If a pharmacist dispenses a partial fill on a prescription pursuant to this section, the pharmacy shall retain the original prescription, with a notation of how much of the prescription has been filled, until the prescription has been fully dispensed. The total quantity dispensed shall not exceed the total quantity prescribed.

(c) Subsequent fills, until the original prescription is completely dispensed, shall occur at the pharmacy where the original prescription was partially filled. The full prescription shall be dispensed not more than 30 days after the first partial fill. Thirty-one days after the initial partial fill on a prescription, the prescription shall expire and no more of the drug shall be dispensed without a subsequent prescription.

(d) The pharmacist shall record in the state prescription drug monitoring program only the actual amounts of the drug dispensed.

(e) The pharmacist shall notify the prescriber that the prescription was partially filled and the amount of the drug that was dispensed in one of the following ways:

(1) A notation in the patient's interoperable electronic health record.

(2) An electronic or facsimile transmission.

(3) A notation in the patient's record at the pharmacy that is available to the prescriber upon request.

(f) (1) A pharmacy shall collect the copayment, if any, for the entire prescription at the time of the first partial fill. No additional money shall be collected for later dispensing, up to the full prescription amount.

(2) A pharmacist shall not charge an additional fee, service fee, or a higher rate or copayment for prescriptions that are dispensed as partial fills.

(g) This section is not intended to conflict with or supersede any other requirement established for the prescription of a Schedule II controlled substance.

(h) For purposes of this section, the following definitions apply:

(1) "Original prescription" means the prescription presented by the patient to the pharmacy or submitted electronically to the pharmacy.

(2) "Partial fill" means a part of a prescription filled that is of a quantity less that the entire prescription.

SEC. 2. Section 1254.7 of the Health and Safety Code is amended to read:

1254.7. (a) It is the intent of the Legislature that pain be assessed and treated promptly, effectively, and for as long as pain persists.

(b) A health facility licensed pursuant to this chapter shall, as a condition of licensure, include pain as an item to be assessed.

The health facility shall ensure that pain assessment is performed in a consistent manner that is appropriate to the patient. The pain assessment shall be noted in the patient's chart.

~~SEC. 3. Section 1254.8 is added to the Health and Safety Code, to read:~~

~~1254.8. (a) A health facility shall not in any way condition or base executive compensation on patient satisfaction measurements for pain management.~~

~~(b) A scheme or artifice that has the purpose of avoiding the limitation established in subdivision (a) shall be a violation of this section.~~

~~(c) For purposes of this section, the following definitions shall apply:~~

~~(1) (A) "Executive compensation" means compensation or any tangible employment benefit to chief executive officers, executives, managers, and administrators of hospitals, including, but not limited to, wages; salary; paid time off; bonuses; incentive payments; lump-sum cash payments; below market rate loans or loan forgiveness; payments for transportation, travel, meals, or other expenses in excess of actual documented expenses incurred in the performance of duties; payments or reimbursement for entertainment or social club memberships; housing, automobiles, parking, or similar benefits; scholarships or fellowships; payment for dependent care or adoption assistance; payment of personal legal or financial services; stock options or awards; and deferred compensation earned or accrued, even if not yet vested or paid.~~

~~(B) "Executive compensation" does not include a benefit or remuneration to the extent that the inclusion of that benefit or remuneration is preempted by federal law or violates the state or federal constitution.~~

~~(2) "Pain management" means the prevention, diagnosis, and treatment of pain.~~

~~(3) "Patient satisfaction measurement" means a survey, questionnaire, poll, audit, or other instrument or process that collects or measures patient-reported outcomes or patient feelings about the medical care provided at the hospital, including, but not limited to, satisfaction with professional staff, service, and facilities.~~

~~SEC. 4.~~

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
May 10, 2017

BILL ANALYSIS

AUTHOR:	Rodriguez	**BILL NUMBER:**	AB 1102
SPONSOR:	California State Council of the Service Employees International Union; California Nurses Association	**BILL STATUS:**	Assembly Committee on Appropriations
SUBJECT:	Health facilities: whistleblower protections	**DATE LAST AMENDED:**	April 20, 2017

SUMMARY:
1. Existing law requires the State Department of Public Health to adopt regulations that establish minimum, specific, and numerical licensed nurse-to-patient ratios by licensed nurse classification and by hospital unit, as defined, for all licensed health facilities, as specified.

Existing law requires additional staff to be assigned in accordance with a documented patient classification system for determining nursing care requirements, as specified. Existing law prohibits a registered nurse from being assigned to a nursing unit or clinical area unless that nurse has first received sufficient orientation in that clinical area and has demonstrated current competence, as specified.

2. Existing law provides for the licensure and regulation of health facilities, as defined, by the department.

Existing law prohibits a health facility from discriminating or retaliating against a patient, employee, member of the medical staff, or any other health care worker of the health facility because that person has presented a grievance, complaint, or report to the facility, as specified, or has initiated, participated, or cooperated in an investigation or administrative proceeding related to the quality of care, services, or conditions at the facility, as specified.

Existing law makes a person who willfully violates those provisions guilty of a misdemeanor punishable by a fine of not more than $20,000 and makes a violation of those provisions subject to a civil penalty.

Amended summary as of 4/20:
This bill now eliminates the language of section 1., above.

ANALYSIS:
As introduced, the author's summary: AB 1102 would protect patient safety by prohibiting an employer from retaliating against a nurse who refuses to put patient safety and the RN license at

risk by agreeing to an assignment which violates nurse-to-patient staffing ratios. The ratios are contained in California Code of Regulations, Title 22.

This bill would prohibit a health facility from discriminating or retaliating against any of the above-described persons because that person has refused an assignment or change in assignment on the basis that it would violate requirements set forth pursuant to regulations adopted under the provisions described above relating to nursing.

Amended analysis as of 4/20:
This bill deletes the language in the second paragraph, above in Analysis.

The bill adds a provision that now increases the maximum fine for a misdemeanor violation of these provisions to $75,000.

BOARD POSITION: Watch (4/5/17)

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Not previously considered

SUPPORT:
SEIU California (co-sponsor)
California Nurses Association (co-sponsor)
AFSCME Local 2620 (previous version)

OPPOSE:
None identified

AMENDED IN ASSEMBLY APRIL 20, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL No. 1102

Introduced by Assembly Member Rodriguez

February 17, 2017

An act to amend Section 1278.5 of the Health and Safety Code, relating to health facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 1102, as amended, Rodriguez. Health facilities: whistleblower protections.

~~Existing law requires the State Department of Public Health to adopt regulations that establish minimum, specific, and numerical licensed nurse-to-patient ratios by licensed nurse classification and by hospital unit, as defined, for all licensed health facilities, as specified. Existing law requires additional staff to be assigned in accordance with a documented patient classification system for determining nursing care requirements, as specified. Existing law prohibits a registered nurse from being assigned to a nursing unit or clinical area unless that nurse has first received sufficient orientation in that clinical area and has demonstrated current competence, as specified.~~

Existing law provides for the licensure and regulation of health facilities, as defined, by the department. Existing law prohibits a health facility from discriminating or retaliating against a patient, employee, member of the medical staff, or any other health care worker of the health facility because that person has presented a grievance, complaint, or report to the facility, as specified, or has initiated, participated, or cooperated in an investigation or administrative proceeding related to the quality of care, services, or conditions at the facility, as specified.

Existing law makes a person who willfully violates those provisions guilty of a misdemeanor *punishable by a fine of not more than $20,000* and makes a violation of those provisions subject to a civil penalty.

~~This bill would additionally prohibit a health facility from discriminating or retaliating against any of the above-described persons because that person has refused an assignment or change in assignment on the basis that it would violate requirements set forth pursuant to regulations adopted under the provisions described above relating to nursing. By expanding the scope of a crime, this bill would impose a state-mandated local program. The bill would also make technical, nonsubstantive changes to those provisions.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

This bill would increase the maximum fine for a misdemeanor violation of these provisions to $75,000.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: ~~yes~~ *no*.

The people of the State of California do enact as follows:

SECTION 1. Section 1278.5 of the Health and Safety Code is amended to read:

1278.5. (a) The Legislature finds and declares that it is the public policy of the State of California to encourage patients, nurses, members of the medical staff, and other health care workers to notify government entities of suspected unsafe patient care and conditions. The Legislature encourages this reporting in order to protect patients and in order to assist those accreditation and government entities charged with ensuring that health care is safe. The Legislature finds and declares that whistleblower protections apply primarily to issues relating to the care, services, and conditions of a facility and are not intended to conflict with existing provisions in state and federal law relating to employee and employer relations.

(b) (1) No health facility shall discriminate or retaliate, in any manner, against any patient, employee, member of the medical

staff, or any other health care worker of the health facility because that person has done ~~any~~ *either* of the following:

(A) Presented a grievance, complaint, or report to the facility, to an entity or agency responsible for accrediting or evaluating the facility, or the medical staff of the facility, or to any other governmental entity.

(B) Has initiated, participated, or cooperated in an investigation or administrative proceeding related to the quality of care, services, or conditions at the facility that is carried out by an entity or agency responsible for accrediting or evaluating the facility or its medical staff, or governmental entity.

~~(C) Has refused an assignment or change in assignment on the basis that it would violate requirements set forth pursuant to regulations adopted under Section 1276.4, including any requirements related to nurse assignments.~~

(2) No entity that owns or operates a health facility, or that owns or operates any other health facility, shall discriminate or retaliate against any person because that person has taken any actions pursuant to this subdivision.

(3) A violation of this section shall be subject to a civil penalty of not more than twenty-five thousand dollars ($25,000). The civil penalty shall be assessed and recovered through the same administrative process set forth in Chapter 2.4 (commencing with Section 1417) for long-term health care facilities.

(c) Any type of discriminatory treatment of a patient by whom, or upon whose behalf, a grievance or complaint has been submitted, directly or indirectly, to a governmental entity or received by a health facility administrator within 180 days of the filing of the grievance or complaint, shall raise a rebuttable presumption that the action was taken by the health facility in retaliation for the filing of the grievance or complaint.

(d) (1) There shall be a rebuttable presumption that discriminatory action was taken by the health facility, or by the entity that owns or operates that health facility, or that owns or operates any other health facility, in retaliation against an employee, member of the medical staff, or any other health care worker of the facility, if responsible staff at the facility or the entity that owns or operates the facility had knowledge of the actions, participation, or cooperation of the person responsible for any acts described in paragraph (1) of subdivision (b), and the

discriminatory action occurs within 120 days of the filing of the grievance or complaint by the employee, member of the medical staff or any other health care worker of the facility.

(2) For purposes of this section, discriminatory treatment of an employee, member of the medical staff, or any other health care worker includes, but is not limited to, discharge, demotion, suspension, or any unfavorable changes in, or breach of, the terms or conditions of a contract, employment, or privileges of the employee, member of the medical staff, or any other health care worker of the health care facility, or the threat of any of these actions.

(e) The presumptions in subdivisions (c) and (d) shall be presumptions affecting the burden of producing evidence as provided in Section 603 of the Evidence Code.

(f) Any person who willfully violates this section is guilty of a misdemeanor punishable by a fine of not more than ~~twenty thousand dollars ($20,000).~~ *seventy-five thousand dollars ($75,000), in addition to the civil penalty provided in paragraph (3) of subdivision (b).*

(g) An employee who has been discriminated against in employment pursuant to this section shall be entitled to reinstatement, reimbursement for lost wages and work benefits caused by the acts of the employer, and the legal costs associated with pursuing the case, or to any remedy deemed warranted by the court pursuant to this chapter or any other applicable provision of statutory or common law. A health care worker who has been discriminated against pursuant to this section shall be entitled to reimbursement for lost income and the legal costs associated with pursuing the case, or to any remedy deemed warranted by the court pursuant to this chapter or other applicable provision of statutory or common law. A member of the medical staff who has been discriminated against pursuant to this section shall be entitled to reinstatement, reimbursement for lost income resulting from any change in the terms or conditions of his or her privileges caused by the acts of the facility or the entity that owns or operates a health facility or any other health facility that is owned or operated by that entity, and the legal costs associated with pursuing the case, or to any remedy deemed warranted by the court pursuant to this chapter or any other applicable provision of statutory or common law.

(h) The medical staff of the health facility may petition the court for an injunction to protect a peer review committee from being required to comply with evidentiary demands on a pending peer review hearing from the member of the medical staff who has filed an action pursuant to this section, if the evidentiary demands from the complainant would impede the peer review process or endanger the health and safety of patients of the health facility during the peer review process. Prior to granting an injunction, the court shall conduct an in camera review of the evidence sought to be discovered to determine if a peer review hearing, as authorized in Section 805 and Sections 809 to 809.5, inclusive, of the Business and Professions Code, would be impeded. If it is determined that the peer review hearing will be impeded, the injunction shall be granted until the peer review hearing is completed. Nothing in this section shall preclude the court, on motion of its own or by a party, from issuing an injunction or other order under this subdivision in the interest of justice for the duration of the peer review process to protect the person from irreparable harm.

(i) For purposes of this section, "health facility" means any facility defined under this chapter, including, but not limited to, the facility's administrative personnel, employees, boards, and committees of the board, and medical staff.

(j) This section shall not apply to an inmate of a correctional facility or juvenile facility of the Department of Corrections and Rehabilitation, or to an inmate housed in a local detention facility including a county jail or a juvenile hall, juvenile camp, or other juvenile detention facility.

(k) This section shall not apply to a health facility that is a long-term health care facility, as defined in Section 1418. A health facility that is a long-term health care facility shall remain subject to Section 1432.

(*l*) Nothing in this section shall be construed to limit the ability of the medical staff to carry out its legitimate peer review activities in accordance with Sections 809 to 809.5, inclusive, of the Business and Professions Code.

(m) Nothing in this section abrogates or limits any other theory of liability or remedy otherwise available at law.

~~SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school~~

~~district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.~~

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BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
May 10, 2017

BILL ANALYSIS

AUTHOR:	Burke	**BILL NUMBER:**	AB 1110
SPONSOR:	California Board of Optometry	**BILL STATUS:**	Assembly Committee on Appropriations
SUBJECT:	Pupil health: eye and vision examinations	**DATE LAST AMENDED:**	April 18, 2017

SUMMARY:
Existing law requires a pupil's vision to be appraised by a school nurse or other authorized person in the pupil's kindergarten year or upon first enrollment in elementary school, and in grades 2, 5, and 8, unless the appraisal is waived by the pupil's parents upon presentation of a certificate from a physician and surgeon, a physician assistant, or an optometrist.

Existing law requires the State Department of Education to adopt guidelines to implement those provisions.

ANALYSIS:
Legislator's summary: AB 1110 is to ensure that all of California's students are receiving a comprehensive eye exam by a physician, optometrist, or ophthalmologist upon elementary school entry.

This bill would require a pupil's vision to be appraised in accordance with the above-specified provisions only if the pupil's parent or guardian fails to provide the results of a vision examination conducted by a physician, optometrist, or ophthalmologist in accordance with specified provisions.

The bill would prohibit a school from denying admission to, or taking adverse action against, a pupil if his or her parent or guardian fails to provide the results of the vision examination.

The bill would require the department to adopt regulations, rather than guidelines, to implement these provisions.

Amended analysis as of 3/27:
This bill would require, *in a pupil's kindergarten year or upon first enrollment or entry in elementary school, the* pupil's vision to be appraised in accordance with the above-specified provisions only if the pupil's parent or guardian fails to provide the results of a *an eye and* vision examination conducted by a physician, optometrist, or ophthalmologist in accordance with specified provisions, *unless the pupil's parent or guardian submits a written waiver to the school. The bill would require a school to notify parents and guardians of the examination requirement and waiver option. By imposing additional duties on schools, the bill would impose a state-*

mandated local program. The bill would prohibit a school from denying admission to, or taking adverse action against, a pupil if his or her parent or guardian fails to provide the results of the *eye and* vision examination.

Amended analysis as of 4/18:
This bill *would require, during the kindergarten year or upon first enrollment or entry at an elementary school, including a charter school, a pupil's eyes and vision to be examined by a physician, optometrist, or ophthalmologist in accordance with specified provisions, unless the pupil's parent or guardian submits a written waiver to the school or charter school. The bill* would require, in a pupil's kindergarten year or upon first enrollment or entry *at an* elementary school that is not a charter school, the pupil's vision to be appraised in accordance with the above-specified provisions only if the pupil's parent or guardian fails to provide the results of the eye and vision examination. The bill would require a school or charter school to notify parents and guardians of the examination requirement and waiver option. By imposing additional duties on schools and charter schools, the bill would impose a state-mandated local program. The bill would prohibit a school *or charter school* from denying admission to, or taking adverse action against, a pupil if his or her parent or guardian fails to provide the results of the eye and vision examination.

BOARD POSITION: Watch (4/5/17)

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Watch (3/8/17)

SUPPORT:
California State Board of Optometry (sponsor)
California Black Health Network
California Oaks Vision Center of Optometry
California Optometric Association
California State PTA
Disability Rights California
FirstSight Vision Services, Inc.
Marshall B. Ketchum University, Southern California College of Optometry
National Vision, Inc.
Service Employees International Union (SEIU)
United Food and Commercial Workers (UFCW) Union
VSP Vision Care
Western University of Health Sciences, College of Optometry
Numerous individuals

OPPOSE:
American Academy of Ophthalmology
American Academy of Pediatrics
American Association for Pediatric Ophthalmology and Strabismus
California Academy of Eye Physicians and Surgeons
California Association of Health Plans
California Chamber of Commerce
California Medical Association
California School Nurses Organization
Kaiser Permanente

AMENDED IN ASSEMBLY APRIL 18, 2017

AMENDED IN ASSEMBLY MARCH 27, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL No. 1110

Introduced by Assembly Member Burke
(Coauthor: Assembly Member Low)
(Coauthors: Senators Nguyen and Vidak)

February 17, 2017

An act to amend Section 49455 of the Education Code, relating to pupil health.

LEGISLATIVE COUNSEL'S DIGEST

AB 1110, as amended, Burke. Pupil health: eye and vision examinations.

Existing law requires a pupil's vision to be appraised by a school nurse or other authorized person in the pupil's kindergarten year or upon first enrollment in elementary school, and in grades 2, 5, and 8, unless the appraisal is waived by the pupil's parents upon presentation of a certificate from a physician and surgeon, a physician assistant, or an optometrist. Existing law requires the State Department of Education to adopt guidelines to implement those provisions.

This bill *would require, during the kindergarten year or upon first enrollment or entry at an elementary school, including a charter school, a pupil's eyes and vision to be examined by a physician, optometrist, or ophthalmologist in accordance with specified provisions, unless the pupil's parent or guardian submits a written waiver to the school or charter school. The bill* would require, in a pupil's kindergarten year or upon first enrollment or entry ~~in~~ *at an* elementary ~~school,~~ *school that*

is not a charter school, the pupil's vision to be appraised in accordance with the above-specified provisions only if the pupil's parent or guardian fails to provide the results of ~~an~~ *the* eye and vision ~~examination conducted by a physician, optometrist, or ophthalmologist in accordance with specified provisions, unless the pupil's parent or guardian submits a written waiver to the school.~~ *examination.* The bill would require a school *or charter school* to notify parents and guardians of the examination requirement and waiver ~~option.~~ *option, as specified.* By imposing additional duties on ~~schools,~~ *schools and charter schools,* the bill would impose a state-mandated local program. The bill would prohibit a school *or charter school* from denying admission to, or taking adverse action against, a pupil if his or her parent or guardian fails to provide the results of the eye and vision examination. The bill would require the department to adopt regulations, rather than guidelines, to implement these provisions.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 49455 of the Education Code is amended to read:

49455. (a) (1) During the kindergarten year or upon first enrollment or entry in a California school district of a pupil at an elementary school, *including a charter school,* the pupil's eyes and vision shall be examined by a physician, optometrist, or ophthalmologist, unless the pupil's parent or guardian submits a written waiver to the ~~school.~~ *school or charter school.* This examination shall include tests for monocular distance and binocular near visual acuity, binocular vision skills, including eye teaming and convergence, accommodation, and depth perception, color vision, pupil evaluation, measurement of refractive error, and eye health evaluations. The parent or guardian of the pupil

shall provide results of the eye and vision examination to the ~~school.~~ *school or charter school.*

(2) A school *or charter school* shall not deny admission to a pupil or take any other adverse action against a pupil if his or her parent or guardian fails to provide the results of the eye and vision examination to the ~~school.~~ *school or charter school.*

(3) If the results of the eye and vision examination are not provided to the school, then during the kindergarten year or upon first enrollment or entry, the pupil's vision shall be appraised by the school nurse or other person authorized under Section 49452. *This paragraph shall not apply to a pupil enrolled in a charter school.*

(4) A school *or charter school* shall notify parents and guardians of the examination requirement and waiver option described in this subdivision. *A school or charter school shall include plain language in the notification stating that the eye and vision examination described in paragraph (1) is purely voluntary. A school that is not a charter school shall also include plain language in the notification stating that if the parent or guardian chooses to not have his or her child's vision examined by a physician, optometrist, or ophthalmologist in accordance with paragraph (1), the pupil's vision will be screened by the school nurse or other authorized person during the pupil's kindergarten year or upon first enrollment or entry pursuant to paragraph (3).*

(b) (1) In grades 2, 5, and 8, a pupil's vision shall be appraised by the school nurse or other person authorized under Section 49452.

(2) The appraisal may be waived, if the pupil's parent or guardian so desires, by presenting a certificate from a physician and surgeon, a physician assistant practicing in compliance with Chapter 7.7 (commencing with Section 3500) of Division 2 of the Business and Professions Code, or an optometrist setting out the results of a determination of the pupil's vision, including visual acuity and color vision.

(3) A pupil whose first enrollment or entry occurs in grade 4 or 7 shall not be required to be appraised in the year immediately following the pupil's first enrollment or entry.

(c) (1) An appraisal performed pursuant to paragraph (3) of subdivision (a) or paragraph (1) of subdivision (b) shall include tests for visual acuity, including near vision and color vision.

However, color vision shall be appraised once and only on male pupils, and the results of the appraisal shall be entered in the health record of the pupil. Color vision appraisal need not begin until the male pupil has reached grade 1.

(2) A pupil's vision may be appraised by using an eye chart or any other scientifically validated photoscreening test. Photoscreening tests shall be performed under an agreement with, or the supervision of, an optometrist or ophthalmologist, by the school nurse, or by a trained individual who meets requirements established by the department.

(d) Continual and regular observation of the pupil's eyes, appearance, behavior, visual performance, and perception that may indicate vision difficulties shall be done by the school nurse and the classroom teacher.

(e) This section shall not apply to a pupil whose parent or guardian files with the principal of the school in which the pupil is enrolling, a statement in writing that they adhere to the faith or teachings of any well-recognized religious sect, denomination, or organization and in accordance with its creed, tenets, or principles depend for healing upon prayer in the practice of their religion.

(f) Subdivisions (b) to (e), inclusive, shall not apply to a charter school.

~~(f)~~

(g) The department shall adopt regulations to implement this section, including regulations addressing training requirements and the notification requirement described in paragraph (4) of subdivision (a).

SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

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BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
May 10, 2017

BILL ANALYSIS

AUTHOR:	Friedman	**BILL NUMBER:**	AB 1560
SPONSOR:		**BILL STATUS:**	Assembly Committee on Business and Professions
SUBJECT:	Nurse practitioners: supervision	**DATE LAST AMENDED:**	March 21, 2017

SUMMARY:
This bill was introduced as Healing arts: records on February 17, 2017. It was amended March 21st to: Nurse practitioners: supervision.

The Nursing Practice Act provides for the licensure and regulation of the practice of nursing by the Board of Registered Nursing. The act authorizes a nurse practitioner to furnish or order drugs or devices under specified circumstances subject to physician and surgeon supervision. The act prohibits a physician and surgeon from supervising more than 4 nurse practitioners at one time for purposes of furnishing drugs or devices.

ANALYSIS:
This bill would delete that cap on the number of nurse practitioners a physician and surgeon may supervise at one time for purposes of furnishing drugs or devices.

BOARD POSITION: Not previously considered

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Not previously considered

SUPPORT:
California Association for Nurse Practitioners (CANP)

OPPOSE:
None identified

AMENDED IN ASSEMBLY MARCH 21, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL No. 1560

Introduced by Assembly Member Friedman

February 17, 2017

An act to amend Section ~~500~~ *2836.1* of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1560, as amended, Friedman. ~~Healing arts: records.~~ *Nurse practitioners: supervision.*

The Nursing Practice Act provides for the licensure and regulation of the practice of nursing by the Board of Registered Nursing. The act authorizes a nurse practitioner to furnish or order drugs or devices under specified circumstances subject to physician and surgeon supervision. The act prohibits a physician and surgeon from supervising more than 4 nurse practitioners at one time for purposes of furnishing drugs or devices.

This bill would delete that cap on the number of nurse practitioners a physician and surgeon may supervise at one time for purposes of furnishing drugs or devices.

~~Existing law permits the Medical Board of California, the Dental Board of California, and the California State Board of Pharmacy to reproduce records that they have a duty to keep, if those records are destroyed by fire or public calamity.~~

~~This bill would make a nonsubstantive change to this provision.~~

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 2836.1 of the Business and Professions Code is amended to read:

2836.1. Neither this chapter nor any other provision of law shall be construed to prohibit a nurse practitioner from furnishing or ordering drugs or devices when all of the following apply:

(a) The drugs or devices are furnished or ordered by a nurse practitioner in accordance with standardized procedures or protocols developed by the nurse practitioner and the supervising physician and surgeon when the drugs or devices furnished or ordered are consistent with the practitioner's educational preparation or for which clinical competency has been established and maintained.

(b) The nurse practitioner is functioning pursuant to standardized procedure, as defined by Section 2725, or protocol. The standardized procedure or protocol shall be developed and approved by the supervising physician and surgeon, the nurse practitioner, and the facility administrator or the designee.

(c) (1) The standardized procedure or protocol covering the furnishing of drugs or devices shall specify which nurse practitioners may furnish or order drugs or devices, which drugs or devices may be furnished or ordered, under what circumstances, the extent of physician and surgeon supervision, the method of periodic review of the nurse practitioner's competence, including peer review, and review of the provisions of the standardized procedure.

(2) In addition to the requirements in paragraph (1), for Schedule II controlled substance protocols, the provision for furnishing Schedule II controlled substances shall address the diagnosis of the illness, injury, or condition for which the Schedule II controlled substance is to be furnished.

(d) The furnishing or ordering of drugs or devices by a nurse practitioner occurs under physician and surgeon supervision. Physician and surgeon supervision shall not be construed to require the physical presence of the physician, but does include (1) collaboration on the development of the standardized procedure, (2) approval of the standardized procedure, and (3) availability by telephonic contact at the time of patient examination by the nurse practitioner.

~~(e) For purposes of this section, no physician and surgeon shall supervise more than four nurse practitioners at one time.~~

~~(f)~~

(e) (1) Drugs or devices furnished or ordered by a nurse practitioner may include Schedule II through Schedule V controlled substances under the California Uniform Controlled Substances Act (Division 10 (commencing with Section 11000) of the Health and Safety Code) and shall be further limited to those drugs agreed upon by the nurse practitioner and physician and surgeon and specified in the standardized procedure.

(2) When Schedule II or III controlled substances, as defined in Sections 11055 and 11056, respectively, of the Health and Safety Code, are furnished or ordered by a nurse practitioner, the controlled substances shall be furnished or ordered in accordance with a patient-specific protocol approved by the treating or supervising physician. A copy of the section of the nurse practitioner's standardized procedure relating to controlled substances shall be provided, upon request, to any licensed pharmacist who dispenses drugs or devices, when there is uncertainty about the nurse practitioner furnishing the order.

~~(g)~~

(f) (1) The board has certified in accordance with Section 2836.3 that the nurse practitioner has satisfactorily completed a course in pharmacology covering the drugs or devices to be furnished or ordered under this section.

(2) A physician and surgeon may determine the extent of supervision necessary pursuant to this section in the furnishing or ordering of drugs and devices.

(3) Nurse practitioners who are certified by the board and hold an active furnishing number, who are authorized through standardized procedures or protocols to furnish Schedule II controlled substances, and who are registered with the United States Drug Enforcement Administration, shall complete, as part of their continuing education requirements, a course including Schedule II controlled substances based on the standards developed by the board. The board shall establish the requirements for satisfactory completion of this subdivision.

~~(h)~~

(g) Use of the term "furnishing" in this section, in health facilities defined in Section 1250 of the Health and Safety Code,

shall include (1) the ordering of a drug or device in accordance with the standardized procedure and (2) transmitting an order of a supervising physician and surgeon.

~~(i)~~

(h) "Drug order" or "order" for purposes of this section means an order for medication which is dispensed to or for an ultimate user, issued by a nurse practitioner as an individual practitioner, within the meaning of Section ~~1306.02~~ *1306.03* of Title 21 of the Code of Federal Regulations. Notwithstanding any other provision of law, (1) a drug order issued pursuant to this section shall be treated in the same manner as a prescription of the supervising physician; (2) all references to "prescription" in this code and the Health and Safety Code shall include drug orders issued by nurse practitioners; and (3) the signature of a nurse practitioner on a drug order issued in accordance with this section shall be deemed to be the signature of a prescriber for purposes of this code and the Health and Safety Code.

~~SECTION 1. Section 500 of the Business and Professions Code is amended to read:~~

~~500. If the register or book of registration of the Dental Board of California, the Medical Board of California, or the California State Board of Pharmacy is destroyed by fire or other public calamity, the board, whose duty it is to keep the register or book, may reproduce it so that there may be shown as nearly as possible the record existing in the original at the time of destruction.~~

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BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
May 10, 2017

BILL ANALYSIS

AUTHOR:	Burke	**BILL NUMBER:**	AB 1612
SPONSOR:	California Nurse Midwives Association	**BILL STATUS:**	Assembly Committee on Appropriations
SUBJECT:	Nursing: certified nurse-midwives: supervision	**DATE LAST AMENDED:**	April 18, 2017

SUMMARY:
The Nursing Practice Act provides for the licensure and regulation of nurse practitioners by the Board of Registered Nursing, which is within the Department of Consumer Affairs, and requires the board to issue a certificate to practice nurse-midwifery to a licensee who meets specified qualifications.

That act authorizes the board to appoint a committee of qualified physicians and nurses to develop the necessary standards relating to educational requirements, ratios of nurse-midwives to supervising physicians, and associated matters.

As amended 3/20:
That act *requires each applicant for a certificate to show evidence satisfactory to the board that the applicant has met educational standards established by the board or has at least the equivalent thereof and* authorizes the board to appoint a committee of qualified physicians and nurses to develop the necessary standards relating to educational requirements, ratios of nurse-midwives to supervising physicians, and associated matters.

As amended 4/18:
The bill changes the subject from "Nursing: nurse-midwives" to "Nursing: certified nurse-midwives: supervision."

1. The Nursing Practice Act authorizes a certified nurse-midwife, under the supervision of a licensed physician and surgeon, to attend cases of normal childbirth and to provide prenatal, intrapartum, and postpartum care, including family planning care, for the mother, and immediate care for the newborn, and provides that the practice of nurse-midwifery constitutes the furthering or undertaking by a certified person, under the supervision of a licensed physician and surgeon who has current practice or training in obstetrics, to assist a woman in childbirth so long as progress meets criteria accepted as normal. The act makes the violation of any of its provisions punishable as a misdemeanor.
2. The act authorizes a certified nurse-midwife to furnish and order drugs or devices incidentally to the provision of family planning services, routine health care or perinatal care, and care rendered

consistent with the certified nurse-midwife's educational preparation in specified facilities and clinics, and only in accordance with standardized procedures and protocols, including physician and surgeon supervision.

3. The act also authorizes a certified nurse-midwife to perform and repair episiotomies and to repair first-degree and 2nd-degree lacerations of the perineum in a licensed acute care hospital and a licensed alternative birth center, if certain requirements are met, including, but not limited to, that episiotomies are performed pursuant to protocols developed by the supervising physician and surgeon.

ANALYSIS:
Legislator's summary: AB 1612 allows certified nurse-midwives, within their existing scope of practice, to manage a full range of women's health care services, including gynecologic and family planning services.

This bill as introduced would remove from the authority of the committee the development of standards relating to ratios of nurse-midwives to supervising physicians.

Amended analysis as of 3/20:
This bill would specify that evidence satisfactory to the board includes evidence of current advanced level national certification by a certifying body that meets standards established and approved by the board and would remove from the authority of the committee the development of standards relating to ratios of nurse-midwives to supervising physicians.

Amended analysis as of 4/18:
This bill deletes the amended language of March 20th.

1. This bill would repeal the requirement that a certified nurse-midwife be under the supervision of a licensed physician and surgeon.

The bill would authorize a certified nurse-midwife to consult, refer, or transfer care to a physician and surgeon as indicated by the health status of the patient and the resources and medical personnel available in the setting of care.

The bill would provide that a certified nurse-midwife practices within a variety of settings, including, but not limited to, the home setting.

The bill would specify that nurse-midwifery care emphasizes informed consent, preventive care, and early detection and referral of complications.

2. This bill additionally would authorize a certified nurse-midwife to furnish and order drugs and devices related to care rendered in a home and only would require physician and surgeon supervision for the furnishing and ordering of drugs and devices if the standardized procedures and protocols require supervision.

The bill would authorize a certified nurse-midwife to directly procure supplies and devices, to obtain and administer drugs and diagnostic tests, to order laboratory and diagnostic testing, and to receive reports that are necessary to his or her practice and consistent with nurse-midwifery education preparation.

3. This bill would also authorize a certified nurse-midwife to perform and repair episiotomies and to repair first-degree and 2nd-degree lacerations of the perineum in a home setting and in a birth center accredited by a national accrediting body approved by the board. The bill would delete all requirements that those procedures be performed pursuant to protocols developed and approved by the supervising physician and surgeon. The bill would require a certified nurse-midwife when performing those procedures to ensure that all complications are referred to a physician and surgeon immediately and to ensure immediate care of patients who are in need of care beyond the scope of practice of the certified nurse-midwife or emergency care for times when a physician and surgeon is not available. By placing new requirements on a certified nurse-midwife, this bill would expand an existing crime and would, therefore, result in a state-mandated local program.

BOARD POSITION: Watch (4/5/17)

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Watch (3/8/17)

SUPPORT:
California Nurse Midwives Association (sponsor)
Association for California Healthcare Districts
California Hospital Association
California Association of Nurse Anesthetists
Maternal and Child Health Access
American Nurses Association California
California Families for Access to Midwives
2 individuals

OPPOSE:
California Medical Association

AMENDED IN ASSEMBLY APRIL 18, 2017

AMENDED IN ASSEMBLY MARCH 20, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL No. 1612

Introduced by Assembly Member Burke

February 17, 2017

An act to amend ~~Section 2746.2~~ *Sections 2746.5, 2746.51, and 2746.52* of the Business and Professions Code, relating to nursing.

LEGISLATIVE COUNSEL'S DIGEST

AB 1612, as amended, Burke. Nursing: ~~nurse-midwives.~~ *certified nurse-midwives: supervision.*

~~The~~

(1) The Nursing Practice Act provides for the licensure and regulation of nurse practitioners by the Board of Registered Nursing, which is within the Department of Consumer Affairs, and requires the board to issue a certificate to practice nurse-midwifery to a licensee who meets specified qualifications. That act ~~requires each applicant for a certificate to show evidence satisfactory to the board that the applicant has met educational standards established by the board or has at least the equivalent thereof and authorizes the board to appoint a committee of qualified physicians and nurses to develop the necessary standards relating to educational requirements, ratios of nurse-midwives to supervising physicians, and associated matters.~~ *authorizes a certified nurse-midwife, under the supervision of a licensed physician and surgeon, to attend cases of normal childbirth and to provide prenatal, intrapartum, and postpartum care, including family planning care, for the mother, and immediate care for the newborn, and provides that the*

practice of nurse-midwifery constitutes the furthering or undertaking by a certified person, under the supervision of a licensed physician and surgeon who has current practice or training in obstetrics, to assist a woman in childbirth so long as progress meets criteria accepted as normal. The act makes the violation of any of its provisions punishable as a misdemeanor, as specified.

This bill would ~~specify that evidence satisfactory to the board includes evidence of current advanced level national certification by a certifying body that meets standards established and approved by the board and would remove from the authority of the committee the development of standards relating to ratios of nurse-midwives to supervising physicians.~~ *repeal the requirement that a certified nurse-midwife be under the supervision of a licensed physician and surgeon. The bill would authorize a certified nurse-midwife to consult, refer, or transfer care to a physician and surgeon as indicated by the health status of the patient and the resources and medical personnel available in the setting of care. The bill would provide that a certified nurse-midwife practices within a variety of settings, including, but not limited to, the home setting. The bill would specify that nurse-midwifery care emphasizes informed consent, preventive care, and early detection and referral of complications.*

(2) The act authorizes a certified nurse-midwife to furnish and order drugs or devices incidentally to the provision of family planning services, routine health care or perinatal care, and care rendered consistent with the certified nurse-midwife's educational preparation in specified facilities and clinics, and only in accordance with standardized procedures and protocols, including physician and surgeon supervision.

This bill additionally would authorize a certified nurse-midwife to furnish and order drugs and devices related to care rendered in a home and only would require physician and surgeon supervision for the furnishing and ordering of drugs and devices if the standardized procedures and protocols require supervision. The bill would authorize a certified nurse-midwife to directly procure supplies and devices, to obtain and administer drugs and diagnostic tests, to order laboratory and diagnostic testing, and to receive reports that are necessary to his or her practice and consistent with nurse-midwifery education preparation.

(3) The act also authorizes a certified nurse-midwife to perform and repair episiotomies and to repair first-degree and 2nd-degree

lacerations of the perineum in a licensed acute care hospital and a licensed alternative birth center, if certain requirements are met, including, but not limited to, that episiotomies are performed pursuant to protocols developed by the supervising physician and surgeon.

This bill would also authorize a certified nurse-midwife to perform and repair episiotomies and to repair first-degree and 2nd-degree lacerations of the perineum in a home setting and in a birth center accredited by a national accrediting body approved by the board. The bill would delete all requirements that those procedures be performed pursuant to protocols developed and approved by the supervising physician and surgeon. The bill would require a certified nurse-midwife when performing those procedures to ensure that all complications are referred to a physician and surgeon immediately and to ensure immediate care of patients who are in need of care beyond the scope of practice of the certified nurse-midwife or emergency care for times when a physician and surgeon is not available. By placing new requirements on a certified nurse-midwife, this bill would expand an existing crime and would, therefore, result in a state-mandated local program.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: ~~no~~ *yes*.

The people of the State of California do enact as follows:

SECTION 1. Section 2746.5 of the Business and Professions Code is amended to read:

2746.5. (a) The certificate to practice nurse-midwifery authorizes the ~~holder, under the supervision of a licensed physician and surgeon,~~ *holder* to attend cases of normal childbirth and to provide prenatal, intrapartum, and postpartum care, including family-planning care, for the mother, and immediate care for the ~~newborn.~~ *newborn in a variety of settings, including, but not limited to, the home setting.*

(b) As used in this chapter, the practice of nurse-midwifery constitutes the furthering or undertaking by any certified ~~person, under the supervision of a licensed physician and surgeon who has current practice or training in obstetrics,~~ *person* to assist a woman in childbirth so long as progress meets criteria accepted as normal. All complications shall be referred to a physician *and surgeon* immediately. The practice of nurse-midwifery does not include the assisting of childbirth by any artificial, forcible, or mechanical means, nor the performance of any version.

(c) ~~As used in this article, "supervision" shall not be construed to require the physical presence of the supervising physician.~~ *A certified nurse-midwife may consult, refer, or transfer care to a physician and surgeon as indicated by the health status of the patient and the resources and medical personnel available in the setting of care. Nurse-midwifery care emphasizes informed consent, preventive care, and early detection and referral of complications.*

(d) A certified nurse-midwife is not authorized to practice medicine and surgery by the provisions of this chapter.

(e) Any regulations promulgated by a state department that affect the scope of practice of a certified nurse-midwife shall be developed in consultation with the board.

SEC. 2. Section 2746.51 of the Business and Professions Code is amended to read:

2746.51. (a) Neither this chapter nor any other ~~provision of~~ law shall be construed to prohibit a certified nurse-midwife from furnishing or ordering drugs or devices, including controlled substances classified in Schedule II, III, IV, or V under the California Uniform Controlled Substances Act (Division 10 (commencing with Section 11000) of the Health and Safety Code), when all of the following apply:

(1) The drugs or devices are furnished or ordered ~~incidentally~~ *related* to the provision of any of the following:

(A) Family planning services, as defined in Section 14503 of the Welfare and Institutions Code.

(B) Routine health care or perinatal care, as defined in subdivision (d) of Section 123485 of the Health and Safety Code.

(C) Care rendered, consistent with the certified nurse-midwife's educational preparation or for which clinical competency has been established and maintained, to persons within a facility specified in subdivision (a), (b), (c), (d), (i), or (j) of Section 1206 of the

Health and Safety Code, a clinic as specified in Section 1204 of the Health and Safety Code, a general acute care hospital as defined in subdivision (a) of Section 1250 of the Health and Safety Code, a licensed birth center as defined in Section 1204.3 of the Health and Safety Code, or a special hospital specified as a maternity hospital in subdivision (f) of Section 1250 of the Health and Safety Code.

(D) Care rendered in a home pursuant to subdivision (a) of Section 2746.5.

(2) The drugs or devices are furnished or ordered by a certified nurse-midwife in accordance with standardized procedures or protocols. For purposes of this section, standardized procedure means a document, including protocols, developed and approved by ~~the supervising~~ *a* physician and surgeon, the certified nurse-midwife, and the facility administrator or his or her designee. The standardized procedure covering the furnishing or ordering of drugs or devices shall specify all of the following:

(A) Which certified nurse-midwife may furnish or order drugs or devices.

(B) Which drugs or devices may be furnished or ordered and under what circumstances.

(C) The extent of physician and surgeon ~~supervision.~~ *supervision required, if any.*

(D) The method of periodic review of the certified nurse-midwife's competence, including peer review, and review of the provisions of the standardized procedure.

(3) If Schedule II or III controlled substances, as defined in Sections 11055 and 11056 of the Health and Safety Code, are furnished or ordered by a certified nurse-midwife, the controlled substances shall be furnished or ordered in accordance with a patient-specific protocol approved by the treating ~~or supervising~~ physician and surgeon. For Schedule II controlled substance protocols, the provision for furnishing the Schedule II controlled substance shall address the diagnosis of the illness, injury, or condition for which the Schedule II controlled substance is to be furnished.

(4) The furnishing or ordering of drugs or devices by a certified nurse-midwife occurs under ~~physician and surgeon supervision. For purposes of this section, no physician and surgeon shall supervise more than four certified nurse-midwives at one time.~~

~~Physician~~ *standardized procedures and protocols. If the standardized procedures and protocols require physician* and surgeon *supervision,* supervision shall not be construed to require the physical presence of the physician, but does include all of the following:

(A) Collaboration on the development of the standardized procedure or protocol.

(B) Approval of the standardized procedure or protocol.

(C) Availability by telephonic contact at the time of patient examination by the certified nurse-midwife.

(b) (1) The furnishing or ordering of drugs or devices by a certified nurse-midwife is conditional on the issuance by the board of a number to the applicant who has successfully completed the requirements of paragraph (2). The number shall be included on all transmittals of orders for drugs or devices by the certified nurse-midwife. The board shall maintain a list of the certified nurse-midwives that it has certified pursuant to this paragraph and the number it has issued to each one. The board shall make the list available to the California State Board of Pharmacy upon its request. Every certified nurse-midwife who is authorized pursuant to this section to furnish or issue a drug order for a controlled substance shall register with the United States Drug Enforcement Administration.

(2) The board has certified in accordance with paragraph (1) that the certified nurse-midwife has satisfactorily completed a course in pharmacology covering the drugs or devices to be furnished or ordered under this section. The board shall establish the requirements for satisfactory completion of this paragraph.

(3) A physician and surgeon may determine the extent of supervision necessary pursuant to this section in the furnishing or ordering of drugs and devices.

(4) A copy of the standardized procedure or protocol relating to the furnishing or ordering of controlled substances by a certified nurse-midwife shall be provided upon request to any licensed pharmacist who is uncertain of the authority of the certified nurse-midwife to perform these functions.

(5) Certified nurse-midwives who are certified by the board and hold an active furnishing number, who are currently authorized through standardized procedures or protocols to furnish Schedule II controlled substances, and who are registered with the United

States Drug Enforcement Administration shall provide documentation of continuing education specific to the use of Schedule II controlled substances in settings other than a hospital based on standards developed by the board.

(c) Drugs or devices furnished or ordered by a certified nurse-midwife may include Schedule II controlled substances under the California Uniform Controlled Substances Act (Division 10 (commencing with Section 11000) of the Health and Safety Code) under the following conditions:

(1) The drugs and devices are furnished or ordered in accordance with requirements referenced in paragraphs (2) to (4), inclusive, of subdivision (a) and in paragraphs (1) to (3), inclusive, of subdivision (b).

(2) When Schedule II controlled substances, as defined in Section 11055 of the Health and Safety Code, are furnished or ordered by a certified nurse-midwife, the controlled substances shall be furnished or ordered in accordance with a patient-specific protocol approved by ~~the treating or supervising~~ *a* physician and surgeon.

(d) Furnishing of drugs or devices by a certified nurse-midwife means the act of making a pharmaceutical agent or agents available to the patient in strict accordance with a standardized procedure or protocol. Use of the term "furnishing" in this section ~~shall include the following:~~ *includes*

~~(1) The~~ *the* ordering of a drug or device in accordance with the standardized procedure or protocol.

~~(2) Transmitting an order of a supervising physician and surgeon.~~

(e) "Drug order" or "order" for purposes of this section means an order for medication or for a drug or device that is dispensed to or for an ultimate user, issued by a certified nurse-midwife as an individual practitioner, within the meaning of Section 1306.03 of Title 21 of the Code of Federal Regulations. Notwithstanding any other ~~provision of~~ law, (1) a drug order issued pursuant to this section shall be treated in the same manner as a prescription of ~~the supervising~~ *a* physician; (2) all references to "prescription" in this code and the Health and Safety Code shall include drug orders issued by certified nurse-midwives; and (3) the signature of a certified nurse-midwife on a drug order issued in accordance with

this section shall be deemed to be the signature of a prescriber for purposes of this code and the Health and Safety Code.

(f) Notwithstanding any other law, a certified nurse-midwife is authorized to directly procure supplies and devices, to obtain and administer drugs and diagnostic tests, to order laboratory and diagnostic testing, and to receive reports that are necessary to his or her practice as a certified nurse-midwife and consistent with nurse-midwifery education preparation.

SEC. 3. Section 2746.52 of the Business and Professions Code is amended to read:

2746.52. *(a)* Notwithstanding Section 2746.5, the certificate to practice nurse-midwifery authorizes the holder to perform and repair episiotomies, and to repair first-degree and second-degree lacerations of the perineum, in a licensed acute care hospital, as defined in subdivision (a) of Section 1250 of the Health and Safety Code, ~~and~~ a licensed ~~alternate~~ *alternative* birth center, as defined in paragraph (4) of subdivision (b) of Section 1204 of the Health and Safety Code, ~~but only if all of the following conditions are met:~~ *a birth center accredited by a national accrediting body approved by the board, and in a home setting.*

~~(a) The supervising physician and surgeon and any backup physician and surgeon is credentialed to perform obstetrical care in the facility.~~

~~(b) The episiotomies are performed pursuant to protocols developed and approved by all of the following:~~

~~(1) The supervising physician and surgeon.~~

~~(2) The certified nurse-midwife.~~

~~(3) The director of the obstetrics department or the director of the family practice department, or both, if a physician and surgeon in the obstetrics department or the family practice department is a supervising physician and surgeon, or an equivalent person if there is no specifically identified obstetrics department or family practice department.~~

~~(4) The interdisciplinary practices committee, if applicable.~~

~~(5) The facility administrator or his or her designee.~~

~~(c) The protocols, and the procedures which shall be developed pursuant to the protocols, shall relate to the performance and repair of episiotomies and the repair of first-degree and second-degree lacerations of the perineum, and shall do all of the following:~~

(b) A certified nurse-midwife performing and repairing episiotomies and repairing first-degree and second-degree lacerations of the perineum, shall do both of the following:

(1) Ensure that all complications are referred to a physician and surgeon immediately.

(2) Ensure immediate care of patients who are in need of care beyond the scope of practice of the certified ~~nurse-midwife,~~ *nurse-midwife,* or emergency care for times when ~~the supervising~~ *a* physician and surgeon is not ~~on the premises.~~ *available.*

~~(3) Establish the number of certified nurse-midwives that a supervising physician and surgeon may supervise.~~

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

~~SECTION 1. Section 2746.2 of the Business and Professions Code is amended to read:~~

~~2746.2. Each applicant shall show by evidence satisfactory to the board that he or she has met the educational standards established by the board or has at least the equivalent thereof, including evidence of current advanced level national certification by a certifying body that meets standards established and approved by the board. The board is authorized to appoint a committee of qualified physicians and nurses, including, but not limited to, obstetricians and nurse-midwives, to develop the necessary standards relating to educational requirements and associated matters.~~

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BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
May 10, 2017

BILL ANALYSIS

AUTHOR:	Maienschein	**BILL NUMBER:**	AB 1650
SPONSOR:	California Ambulance Association	**BILL STATUS:**	Assembly Committee on Appropriations
SUBJECT:	Emergency medical services: community paramedicine	**DATE LAST AMENDED:**	April 20, 2017

SUMMARY:

This bill was introduced on February 17, 2017, and passed the Assembly Committee on Health on April 18th. This summary and analysis reflect the April 20th amended version

Existing law, the Emergency Medical Services System and the Prehospital Emergency Medical Care Personnel Act, governs local emergency medical services (EMS) systems.

The act establishes the Emergency Medical Services Authority, which is responsible for the coordination and integration of all state agencies concerning emergency medical services.

Among other duties, the authority is required to develop planning and implementation guidelines for emergency medical services systems, provide technical assistance to existing agencies, counties, and cities for the purpose of developing the components of emergency medical services systems, and receive plans for the implementation of emergency medical services and trauma care systems from local EMS agencies.

ANALYSIS:
Author's statement: The role of the Community Paramedic is to act as a resource for frequent 911 callers, TB patients, hospice patients, and patients with chronic illnesses in order to reduce hospital admissions and emergency department visits.

This bill would until January 1, 2022, create the Community Paramedic Program in the authority.

The bill would authorize the authority to authorize a local EMS agency that opts to participate in the program to provide specified services, such as case management services and linkage to nonemergency services for frequent EMS system users, through a local community paramedic program.

The bill would require the authority, in consultation with the Office of Statewide Health Planning and Development, to develop criteria to qualify services for participation in the program, develop

an application and application process for local EMS agencies seeking to participate in the program, and to review and approve applications for participation in the program as a component of the local EMS agency's EMS plan.

The bill would authorize a local EMS agency to opt to participate in the program if it meets the criteria established by the authority and completes the application process developed by the criteria.

The bill would specify the necessary components of a community paramedic service plan to be included in the local EMS agency's application.

The bill would require the medical director of the local EMS agency to oversee the local community paramedic program.

The bill would require the authority to annually report specified information related to local community paramedic programs to the office, and require the office to publish the report on its Internet Web site.

BOARD POSITION: Not previously considered

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Not previously considered

SUPPORT:
California Ambulance Association (sponsor)
California Hospital Association

OPPOSE:
California Association for Health Services at Home
California Hospice and Palliative Care Association
California Nurses Association/National Nurses United

AMENDED IN ASSEMBLY APRIL 20, 2017

AMENDED IN ASSEMBLY APRIL 6, 2017

AMENDED IN ASSEMBLY MARCH 29, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL No. 1650

Introduced by Assembly Member Maienschein
(Coauthors: Assembly Members Chávez and Mathis)
(Coauthor: Senator Wilk)

February 17, 2017

An act to add *and repeal* Chapter 13 (commencing with Section 1800) ~~to~~ *of* Division 2.5 of the Health and Safety Code, relating to emergency medical services.

LEGISLATIVE COUNSEL'S DIGEST

AB 1650, as amended, Maienschein. Emergency medical services: community paramedicine.

Existing law, the Emergency Medical Services System and the Prehospital Emergency Medical Care Personnel Act, governs local emergency medical services (EMS) systems. The act establishes the Emergency Medical Services Authority, which is responsible for the coordination and integration of all state agencies concerning emergency medical services. Among other duties, the authority is required to develop planning and implementation guidelines for emergency medical services systems, provide technical assistance to existing agencies, counties, and cities for the purpose of developing the components of emergency medical services systems, and receive plans for the implementation of emergency medical services and trauma care systems from local EMS agencies.

This bill ~~would~~ *would, until January 1, 2022,* create the Community Paramedic Program in the authority. The bill would authorize the authority to authorize a local EMS agency that opts to participate in the program to provide specified services, such as case management services and linkage to nonemergency services for frequent EMS system users, through a local community paramedic program. The bill would require the authority, in consultation with the Office of Statewide Health Planning and Development, to develop criteria to qualify services for participation in the program, develop an application and application process for local EMS agencies seeking to participate in the program, and to review and approve applications for participation in the program as a component of the local EMS agency's EMS plan. The bill would authorize a local EMS agency to opt to participate in the program if it meets the criteria established by the authority and completes the application process developed by the criteria. The bill would specify the necessary components of a community paramedic service plan to be included in the local EMS agency's application. The bill would require the medical director of the local EMS agency to oversee the local community paramedic program. *The bill would require the authority to annually report specified information related to local community paramedic programs to the office, and require the office to publish the report on its Internet Web site.*

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Chapter 13 (commencing with Section 1800) is added to Division 2.5 of the Health and Safety Code, to read:

Chapter 13. Community Paramedic Program

Article 1. General Provisions

1800. This chapter shall be known, and may be cited, as the Community Paramedic Program Act.

1802. Unless the context requires otherwise, the following definitions shall apply to this chapter:

(a) "Community paramedic" means an individual who is educated and trained in community paramedicine, whose scope of

practice is in accordance with standards established by the authority, who holds a current certification as a mobile integrated health community paramedic by the International Board of Specialty Certification or equivalent, who has a valid license issued pursuant to this chapter, and who is accredited by a local EMS agency.

(b) "Program" means the Community Paramedic Program established by this chapter.

1804. Within the authority there is the statewide Community Paramedic Program. The program may authorize a local EMS agency that opts to participate in the program to provide, through a local community paramedic program, *and notwithstanding Sections 1797.52 and 1797.218,* any of the following services:

(a) (1) Postdischarge followup services for targeted and eligible patients recently discharged from a hospital participating in the program.

(2) A postdischarge service authorized pursuant to this subdivision is intended to provide short-term assistance in order to reduce hospital admissions and shall not replace home health care or any other services available to patients.

(b) (1) Directly observed therapy for eligible patients undergoing tuberculosis treatment in partnership with a county public health department.

(2) A directly observed therapy service authorized pursuant to this subdivision is intended as a supplement to provide for after-hours availability or to reach patients who are difficult to serve, and shall not replace home community health workers or public health nurses.

(c) Hospice rapid response service for eligible and enrolled patients to administer comfort care, coordinate services with the hospice nurse, and, as appropriate, avoid patient transport to an acute care hospital emergency department.

(d) Case management services and linkage to nonemergency services for frequent EMS system users, for the purpose of reducing dependence of those users on the EMS system and acute care hospital emergency departments to provide primary medical care.

Article 2. Duties and Powers of the Authority

1810. (a) To implement the program, the authority shall do all of the following:

(1) Develop criteria that qualify local community paramedic services to participate in the program.

(2) Develop an application and application process to be used by a local EMS agency that seeks to participate in the program. The application process shall provide for the submission of a local community paramedic service plan described in Section 1820 that shall be a component of the local EMS agency's local EMS plan.

(3) Review and approve applications for the implementation of local community paramedic services as a component of the local EMS agency's EMS plan in accordance with Section 1797.105.

(b) Criteria described in paragraph (1) of subdivision (a) shall include, but not be limited to, the following:

(1) ~~Training~~ *Minimum training* and certification requirements for a community ~~paramedic.~~ *paramedic, including, but not limited to, the following:*

(A) Four years of job experience as an EMT-P.

(B) At least 48 hours of classroom-based instruction.

(C) At least four hours of clinical, hands-on training.

(D) At least 56 hours of study outside of the classroom.

(2) Regulations for the initiation, operation, and evaluation of a local community paramedic program.

1812. *(a)* The authority shall consult with the Office of Statewide Health Planning and Development in performing its duties required by this chapter.

(b) The authority shall provide the Office of Statewide Health Planning and Development with an annual report regarding all local community paramedic programs that shall include, but not be limited to, information regarding program effectiveness, cost-savings, and patient safety, including details regarding any adverse patient outcomes. The Office of Statewide Health Planning and Development shall publish the report on its Internet Web site.

Article 3. Local EMS Agency Participation

1820. (a) A local EMS agency may opt to participate in the program by meeting the criteria and completing the application

and application process established by the authority pursuant to Section 1810.

(b) A community paramedic service plan developed by a local EMS agency that seeks to participate in the program shall demonstrate that the local EMS agency will be able to meet the requirements of the program and shall include, but not be limited to, all of the following:

(1) Agreements between local agencies and service providers participating or partnering in the local community paramedic program.

(2) A description of the local community paramedic program.

(3) A description of existing problems that the local community paramedic program is intended to address.

(4) Criteria for the enrollment or inclusion of patients in the local community paramedic program.

(5) Goals and intended results of the local community paramedic program.

(6) Criteria for patient and provider safety.

(7) Estimated costs and savings attributable to the local community paramedic program.

(8) Data to be collected for the purpose of evaluating the effectiveness of the local community paramedic program.

(9) Criteria and processes for evaluating the effectiveness of the local community paramedic program.

(10) Protocols, policies, and procedures for the implementation and operation of local community paramedic program services by a community paramedic.

(11) Protocols for the assessment of patients served by the local community paramedic program.

(12) Any other information or plan component required by the authority pursuant to Section 1810.

1822. The local EMS agency medical director shall oversee a local community paramedic program participating in the program.

1823. This chapter shall remain in effect only until January 1, 2022, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2022, deletes or extends that date.

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BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
May 10, 2017

BILL ANALYSIS

AUTHOR:	Lara	**BILL NUMBER:**	SB 349
SPONSOR:	United Nurses Associations of California/Union of Health Care Professionals (UNAC/UHCP); SEIU California	**BILL STATUS:**	Senate Committee on Appropriations
SUBJECT:	Chronic dialysis clinics: staffing requirements	**DATE LAST AMENDED:**	April 17, 2017

SUMMARY:
1. Existing law establishes the State Department of Public Health and sets forth its powers and duties, including, but not limited to, the licensure and regulation of chronic dialysis clinics. Existing law requires the department to adopt regulations to implement these provisions, and requires those regulations to prescribe, among other things, minimum standards for staffing with duly qualified personnel. Violation of these provisions is a crime.

2. Existing law requires every clinic for which a license or special permit has been issued to be periodically inspected, with the frequency to be determined based on the type and complexity of the clinic or special service to be inspected. Existing law makes this provision inapplicable to an end stage renal disease facility.

3. Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

ANALYSIS:
1. This bill would establish minimum staffing requirements for chronic dialysis clinics and establish a minimum transition time between patients receiving dialysis services at a treatment station. The ratios described would constitute the minimum number of nurses, technicians, and social workers assigned to patients at all times. Additional nurses, technicians, and social workers shall be assigned to the extent necessary to ensure that an adequate number of qualified personnel are present whenever patients are undergoing dialysis so that the patient-to-staff ratio is appropriate to the level of dialysis care given and meets the needs of patients.

The bill would require chronic dialysis clinics to maintain certain information relating to the minimum staffing and minimum transition time requirements and provide that information, certified by the medical director and the chief executive officer or administrator under penalty of perjury, to the department on a schedule and in a format specified by the department, but no less frequently than 4 times per year.

The bill would establish a schedule of penalties and actions to be taken for failing to comply with the minimum staffing and minimum transition time requirements, including, among other things, the imposition of civil fines and the requirement that chronic dialysis clinic submit a correction action plan.

The bill would also establish a private right of action to enforce the minimum staffing and minimum transition time requirements. Because failure to comply with the minimum staffing and minimum transition time requirements would be a crime, and by expanding the crime of perjury, this bill would impose a state-mandated local program.

2. This bill would delete that exception and require the department to conduct an inspection of a chronic dialysis clinic at least once per year and as often as necessary to, among other things, ensure compliance with the minimum staffing and minimum transition time requirements and ensure the adequacy of care being provided.

The bill would require the department to issue regulations necessary to implement the bill no later than 180 days following its effective date.

3. This bill would make legislative findings to that effect.

Amended analysis as of 4/3:
The bill now:
Removes the medical director as a party who it to certify certain information to be maintained by chronic dialysis clinics and provided to the department.

Changes the meaning of "transition time". It now means the period of time beginning when one patient has completed treatment and has been disconnected from the dialysis machine.

Changes the date from July 1, 2018, to January 1, 2019, for ensuring that minimum staffing ratios of at least one registered nurse providing care for every eight patients and at least one technician providing care for every three patients are met, a social worker is not assigned to more than 75 patients, and that transition times are at least 45 minutes.

Deletes one provision in the section of the code related to the meaning of the term "Gross staffing-related violation" and adds two provisions:
(D) Five or more staffing-related violations in a 12-month period.
(E) Being out of compliance with one of the staffing ratios for a period of time that extends beyond a single working shift of a nurse, for purposes of the nurse staffing requirement, or a single working shift of a technician, for purposes of the technician staffing requirement.

Makes permissive the imposition of penalties and revises the amounts and ranges of the civil penalties that can be imposed for staffing-related violation.

Amended analysis as of 4/17:
Co-authors Senators Bradford, Hertzberg, and Newman are added.

This bill deletes the "under penalty of perjury requirement" for the clinic administrator who certifies information related to minimum staffing and transition times provided to the department.

The bill deletes provisions under 3., above, in both the Summary and Analysis.

BOARD POSITION: Watch (4/5/17)

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Not previously considered

SUPPORT:
United Nurses Associations of California/Union of Health Care Professionals (UNAC/UHCP) (co-sponsor)
SEIU State Council (co-sponsor)
AFSCME
Black AIDS Institute
Black Women for Wellness
California Alliance for Retired Americans
California Labor Federation
California Retired Teachers Association
Centro La Familia Advocacy Services
Centro Binacional para el Desarrollo Inidgena Oaxaqueno
Congress for California Seniors
El Concilio de Fresno
Fresno Center for New Americans
Fresno Immigration Coalition
Latino Coalition for a Healthy California
Latino Diabetes Association
Latino Equity Alliance
Men of Imperial Courts
Mi Familia Vota
NAACP of Fresno
National Association of Social Workers
New Congregational Church
Sistahs in Sync
Street Level Health Project
Watts Century Latino Organization
Watts Labor Community Action Committee
Individuals

OPPOSE:
Alliance Management
American Nurses Association
Association of California Healthcare Districts
California Dialysis Council
California Hospital Association
California Medical Transportation Association
California Nurses Association
DaVita

Dialysis Clinic, Inc.
Dialysis Patient Citizens
Fresenius Medical Care
Loma Linda University
National Renal Administrators Association
National Renal Support Network
Orange County Business Council
Outset Medical
Providence Health & Services
Renal Physicians Association
St. Joseph Health
Toiyabe Indian Health Project, Inc.
U.S. Renal Care
Valley Industry Commerce Association
Individuals

AMENDED IN SENATE APRIL 17, 2017

AMENDED IN SENATE APRIL 3, 2017

AMENDED IN SENATE MARCH 20, 2017

SENATE BILL No. 349

Introduced by Senator Lara
(Coauthors: Senators Bradford, Hertzberg, and Newman)

February 14, 2017

An act to amend Sections 1226 and 1228 of, to add Sections 1226.4, 1240.1, and 1266.2 to, and to repeal and add the heading of Article 5 (commencing with Section 1240) of Chapter 1 of Division 2 of, the Health and Safety Code, relating to clinics.

LEGISLATIVE COUNSEL'S DIGEST

SB 349, as amended, Lara. Chronic dialysis clinics: staffing requirements.

Existing law establishes the State Department of Public Health and sets forth its powers and duties, including, but not limited to, the licensure and regulation of chronic dialysis clinics. Existing law requires the department to adopt regulations to implement these provisions, and requires those regulations to prescribe, among other things, minimum standards for staffing with duly qualified personnel. Violation of these provisions is a crime.

This bill would establish minimum staffing requirements for chronic dialysis clinics and establish a minimum transition time between patients receiving dialysis services at a treatment station. The bill would require chronic dialysis clinics to maintain certain information relating to the minimum staffing and minimum transition time requirements and provide that information, certified by the chief executive officer or

~~administrator under penalty of perjury,~~ *administrator,* to the department on a schedule and in a format specified by the department, but no less frequently than 4 times per year. The bill would establish a schedule of penalties and actions to be taken for failing to comply with the minimum staffing and minimum transition time requirements, including, among other things, the imposition of civil fines and the requirement that a chronic dialysis clinic submit a corrective action plan. Because failure to comply with the minimum staffing and minimum transition time requirements would be a crime, ~~and by expanding the crime of perjury,~~ this bill would impose a state-mandated local program.

Existing law requires every clinic for which a license or special permit has been issued to be periodically inspected, with the frequency to be determined based on the type and complexity of the clinic or special service to be inspected. Existing law makes this provision inapplicable to an end-stage renal disease facility.

This bill would delete that exception and require the department to conduct an inspection of a chronic dialysis clinic at least once per year and as often as necessary to, among other things, ensure compliance with the minimum staffing and minimum transition time requirements and ensure the adequacy of care being provided.

The bill would require the department to issue regulations necessary to implement the bill no later than 180 days following its effective date.

~~Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.~~

~~This bill would make legislative findings to that effect.~~

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) Dialysis is a critical, lifesaving treatment for Californians suffering from end-stage renal disease.

(b) There are currently more than 63,000 dialysis patients, and 562 licensed outpatient dialysis clinics, in California.

(c) There is broad consensus among medical professionals, academics, and other experts that higher ratios of direct caregiving staff to patients at outpatient dialysis clinics improve patient outcomes, including by reducing the rate at which patients suffer infections or must be hospitalized.

(d) There is also broad consensus among medical professionals, academics, and other experts that adequate time to prepare a treatment station for a patient to be dialyzed is necessary to ensure safety and hygiene protocols are followed, and directly improve patient outcomes, including by reducing the rate at which patients suffer infections or must be unnecessarily hospitalized.

(e) Worker safety is also enhanced by higher ratios of caregiving staff to patients and transition time between patients, including by reducing the risk of injury on the job.

(f) Current staffing levels in outpatient dialysis clinics in California are inadequate to protect patient health and worker safety, and therefore are presently causing harm to dialysis patients, including unnecessary and avoidable deaths, hospitalizations, infections, and medication errors.

(g) Other states mandate minimum direct care staffing requirements in order to enhance patient safety and health at outpatient dialysis clinics.

SEC. 2. Section 1226 of the Health and Safety Code is amended to read:

1226. (a) The regulations shall prescribe the kinds of services which may be provided by clinics in each category of licensure and shall prescribe minimum standards of adequacy, safety, and sanitation of the physical plant and equipment, and, subject to Section 1226.4, minimum standards for staffing with duly qualified personnel and minimum standards for providing the services offered. These minimum standards shall be based on the type of facility, the needs of the patients served, and the types and levels of services provided.

(b) The Office of Statewide Health Planning and Development, in consultation with the Community Clinics Advisory Committee, shall prescribe minimum construction standards of adequacy and

safety for the physical plant of clinics as found in the California Building Standards Code.

(c) (1) A city or county, as applicable, shall have plan review and building inspection responsibilities for the construction or alteration of buildings described in paragraphs (1) and (2) of subdivision (b) of Section 1204 and shall apply the provisions of the latest edition of the California Building Standards Code in conducting these plan review responsibilities. For these buildings, construction and alteration shall include conversion of a building to a purpose specified in paragraphs (1) and (2) of subdivision (b) of Section 1204.

(2) Upon the initial submittal to a city or county by the governing authority or owner of these clinics for plan review and building inspection services, the city or county shall reply in writing to the clinic whether or not the plan review by the city or county will include a certification as to whether or not the clinic project submitted for plan review meets the standards as propounded by the office in the California Building Standards Code.

(3) If the city or county indicates that its review will include this certification, it shall do both of the following:

(A) Apply the applicable clinic provisions of the latest edition of the California Building Standards Code.

(B) Certify in writing, to the applicant within 30 days of completion of construction whether or not these standards have been met.

(d) If upon initial submittal, the city or county indicates that its plan review will not include this certification, the governing authority or owner of the clinic shall submit the plans to the Office of Statewide Health Planning and Development, which shall review the plans for certification whether or not the clinic project meets the standards, as propounded by the office in the California Building Standards Code.

(e) When the office performs review for certification, the office shall charge a fee in an amount that does not exceed its actual costs.

(f) The Office of the State Fire Marshal shall prescribe minimum safety standards for fire and life safety in surgical clinics.

(g) Notwithstanding subdivision (c), the governing authority or owner of a clinic may request the office to perform plan review

services for buildings described in subdivision (c). If the office agrees to perform these services, after consultation with the local building official, the office shall charge an amount not to exceed its actual costs. The construction or alteration of these buildings shall conform to the applicable provisions of the latest edition of the California Building Standards Code for purposes of the plan review by the office pursuant to this subdivision.

(h) Regulations adopted pursuant to this chapter establishing standards for laboratory services shall not be applicable to any clinic that operates a clinical laboratory licensed pursuant to Section 1265 of the Business and Professions Code.

SEC. 3. Section 1226.4 is added to the Health and Safety Code, to read:

1226.4. (a) For purposes of this section, the following terms have the following meanings:

(1) "At all times" includes times during which employees, including, but not limited to, nurses and technicians, are provided meal periods and rest or other breaks.

(2) "Charge nurse" means a charge nurse as described in Section 494.140(b)(3) of Title 42 of the Code of Federal Regulations as it read on December 31, 2016.

(3) "Direct care" means initiating and discontinuing dialysis, monitoring patients during treatment, and administering medications, and physical presence in the immediate area where patients are dialyzed.

(4) "Nurse" means a registered nurse licensed pursuant to Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code.

(5) "Nurse manager" means a nurse manager as described in Section 494.140(b)(1) of Title 42 of the Code of Federal Regulations as it read on December 31, 2016.

(6) "Social worker" means a social worker as described in Section 494.140(d) of Title 42 of the Code of Federal Regulations as it read on December 31, 2016.

(7) "Technician" means a person who holds both of the following qualifications:

(A) The person is a patient care dialysis technician, as described in Section 494.140(e) of Title 42 of the Code of Federal Regulations as it read on December 31, 2016.

(B) The person is a Certified Hemodialysis Technician certified pursuant to Article 3.5 (commencing with Section 1247) of Chapter 3 of Division 2 of the Business and Professions Code.

(8) "Trainee" means a person who is undergoing training to become a technician, but who has not yet been certified as a Certified Hemodialysis Technician pursuant to Article 3.5 (commencing with Section 1247) of Chapter 3 of Division 2 of the Business and Professions Code.

(9) "Transition time" means the period of time beginning when one patient has completed treatment and has been disconnected from the dialysis machine and ending when the next patient is placed in the treatment station, but does not mean the period of time after the last patient of the day leaves the treatment station.

(10) "Treatment station" means a physical location within a chronic dialysis clinic where an individual patient is dialyzed.

(b) (1) Commencing January 1, 2019, a chronic dialysis clinic shall ensure that the following minimum staffing ratios are met at all times that patients are receiving, or preparing to receive, direct care:

(A) At least one nurse is providing direct care for every eight patients. A nurse shall only count toward this ratio during time periods the nurse has no responsibilities other than direct care. A nurse manager or charge nurse shall not count toward this ratio.

(B) At least one technician is providing direct care for every three patients. A technician shall only count toward this ratio during time periods the technician has no responsibilities other than direct care. Trainees shall not count toward this ratio. Nurses counted toward the nurse-to-patient ratio shall not count toward this ratio.

(2) Commencing January 1, 2019, a chronic dialysis clinic shall ensure that a social worker is not assigned more than 75 patients.

(3) The ratios described in paragraphs (1) and (2) shall constitute the minimum number of nurses, technicians, and social workers assigned to patients at all times. Additional nurses, technicians, and social workers shall be assigned to the extent necessary to ensure that an adequate number of qualified personnel are present whenever patients are undergoing dialysis so that the patient-to-staff ratio is appropriate to the level of dialysis care given and meets the needs of patients.

(4) Commencing January 1, 2019, a chronic dialysis clinic shall ensure that the transition time is at least 45 minutes.

(c) The department shall not issue a license to any chronic dialysis clinic unless that chronic dialysis clinic demonstrates the ability and intention to comply with this section.

(d) (1) Every chronic dialysis clinic for which a license has been issued shall maintain, and provide to the department on a form prescribed by the department, at a minimum, the following information:

(A) Actual staffing ratio and transition time data for the period covered by the submission, which shall include, at a minimum, daily totals of the total number and actual hours worked by nurses, technicians, and social workers, the total number of patients and actual hours receiving direct care, and the daily average transition time for each treatment station.

(B) Every instance, no matter how brief, during the period covered by the submission when staffing ratios or transition times did not meet the requirements of subdivision (b) and the reasons and circumstances therefor.

(2) The chief executive officer or administrator of the chronic dialysis clinic shall personally certify ~~under penalty of perjury~~ that he or she is satisfied, after review, that all information submitted pursuant to paragraph (1) is accurate and complete.

(3) The chronic dialysis clinic shall periodically submit the information described in paragraph (1) to the department on a schedule and in a format prescribed by the department, provided that the clinic shall submit that information no less frequently than four times per year.

(e) The department shall inspect each chronic dialysis clinic for which a license has been issued at least once per year, and shall conduct such inspections as often as necessary to ensure compliance with the requirements of subdivision (b), the accuracy and completeness of information provided pursuant to subdivision (d), compliance with corrective action plans, if any, approved under subdivision (b) or (d) of Section 1240.1, and the adequacy of the quality of care being provided.

(f) Within 60 days of receiving a complaint from an employee, an association of employees, a vendor, a contractor, a patient, an association of patients, or a family member of a patient of a chronic dialysis clinic that the chronic dialysis clinic has engaged in a staffing-related violation or gross staffing-related violation, as those terms are defined in subdivision (a) of Section 1240.1, the

department shall investigate the chronic dialysis clinic and, if the evidence shows a violation has occurred, the department shall impose discipline pursuant to Section 1240.1.

(g) (1) Any writing, record, or document received, owned, used, or retained by the department in connection with subdivisions (c), (d), and (e) of this section, and subdivisions (b) to (g), inclusive, of Section 1240.1, is a public record within the meaning of subdivision (e) of Section 6252 of the Government Code, and, as such, is open to public inspection pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code). ~~However, the name and other identifying or confidential information of a person that is contained in those records, except the names of duly authorized officers, employees, or agents of the department conducting an investigation or inspection in response to a complaint filed pursuant to subdivision (f), shall be redacted from copies of those records that are made available for public inspection.~~

(2) The department shall redact from any writing, record, or document described in this subdivision personal identifying information associated with named individuals to the extent required to prevent an unwarranted invasion of personal privacy, as that term is used in subdivision (c) of Section ~~6254.~~ *6254 of the Government Code*, but the department shall not withhold any such writing, record, or document in its entirety under subdivision (c) of Section ~~6254.~~ *6254 of the Government Code.*

(3) Information required to be submitted under subdivision (d), and complaints submitted under subdivision (f), shall not be withheld on the basis of subdivision (f) of Section 6254 of the Government Code.

SEC. 4. Section 1228 of the Health and Safety Code is amended to read:

1228. (a) Except as provided in subdivision (c), every clinic for which a license or special permit has been issued shall be periodically inspected. Except as provided in Section 1226.4, the frequency of inspections shall depend upon the type and complexity of the clinic or special service to be inspected. Inspections shall be conducted no less often than once every three years and as often as necessary to ensure the quality of care being provided.

(b) (1) During inspections, representatives of the department shall offer any advice and assistance to the clinic as they deem

appropriate. The department may contract with local health departments for the assumption of any of the department's responsibilities under this chapter. In exercising this authority, the local health department shall conform to the requirements of this chapter and to the rules, regulations, and standards of the department.

(2) The department shall reimburse local health departments for services performed pursuant to this section, and these payments shall not exceed actual cost. Reports of each inspection shall be prepared by the representative conducting it upon forms prepared and furnished by the department and filed with the department.

(c) This section shall not apply to any of the following:

(1) A rural health clinic.

(2) A primary care clinic accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), the Accreditation Association for Ambulatory Health Care (AAAHC), or any other accrediting organization recognized by the department.

(3) An ambulatory surgical center.

(4) A comprehensive outpatient rehabilitation facility that is certified to participate either in the Medicare Program under Title XVIII (42 U.S.C. Sec. 1395 et seq.) of the federal Social Security Act, or the Medicaid program under Title XIX (42 U.S.C. Sec. 1396 et seq.) of the federal Social Security Act, or both.

(d) Notwithstanding paragraph (2) of subdivision (c), the department shall retain the authority to inspect a primary care clinic pursuant to Section 1227, or as necessary to ensure the quality of care being provided.

SEC. 5. The heading of Article 5 (commencing with Section 1240) of Chapter 1 of Division 2 of the Health and Safety Code is repealed.

SEC. 6. The heading of Article 5 (commencing with Section 1240) is added to Chapter 1 of Division 2 of the Health and Safety Code, to read:

Article 5. Suspension, Revocation, and Penalties

SEC. 7. Section 1240.1 is added to the Health and Safety Code, to read:

1240.1. (a) For purposes of this section, the following terms have the following meanings:

(1) "Staffing-related violation" means any of the following:

(A) Violation by the chronic dialysis clinic, or any of its officers, employees, vendors, or contractors, of *subdivision (b) of* Section 1226.4.

(B) Conduct by the chronic dialysis clinic, or any of its officers, employees, vendors, or contractors, intended to conceal a violation of *subdivision (b) of* Section 1226.4.

(C) A misrepresentation of information provided to the department pursuant to this section or subdivision (d) of Section 1226.4.

(D) Violation by the chronic dialysis clinic, or any of its officers, employees, vendors, or contractors, of any part of a corrective action plan described in subdivision (d) or (e).

~~(E) Other violations that the department has defined in regulation.~~

(2) "Gross staffing-related violation" means any of the following:

(A) A staffing-related violation that causes or exacerbates harm to a patient, or that has a substantial possibility of causing or exacerbating harm to a patient.

(B) A willful or intentional staffing-related violation.

(C) ~~Reckless~~ *A staffing-related violation that occurred following reckless* disregard of a substantial likelihood of a staffing-related violation.

(D) Five or more staffing-related violations in a 12-month period.

(E) Being out of compliance with one of the staffing ratios specified in paragraph (1) of subdivision (b) of Section 1226.4 for a period of time that extends beyond a single working shift of a nurse, for purposes of the nurse staffing requirement, or a single working shift of a technician, for purposes of the technician staffing requirement. For purposes of this subparagraph, the terms "nurse" and "technician" shall have the same meanings as in Section 1226.4.

(F) A continuous period of one week or longer in which the staffing ratio is at or above one social worker assigned to 90 or more patients. For purposes of this subparagraph, "social worker" has the same meaning as in Section 1226.4.

(G) A daily average transition time for a treatment station that is 20 minutes or shorter.

~~(H) Other violations that the department has defined in regulation.~~

(3) "Governing entity" means a person, firm, association, partnership, corporation, or other entity that owns or operates a chronic dialysis clinic for which a license has been issued, without respect to whether the person or entity itself directly holds that license.

(4) "Responsible individual" means a person described in subparagraph (A) or (B) who, with respect to a staffing-related violation or gross staffing-related violation, knew or should have known that the violation would occur and possessed, but failed to exercise, direct responsibility and authority to prevent the violation from occurring, or knew or should have known that the violation had occurred and possessed, but failed to exercise, direct responsibility and authority to substantially remedy the violation.

(A) A member of the governing body, designated person, chief executive officer, and administrator, as those terms are used in Section 494.180 of Title 42 of the Code of Federal Regulations as it read on December 31, 2016.

(B) Managerial employees, officers, or directors of the governing entity.

(b) (1) The department may impose civil penalties of up to one thousand dollars ($1,000) on a chronic dialysis clinic for repeated staffing-related violations in the manner provided in this chapter. Action taken under this subdivision shall be in addition to the actions required or authorized under subdivisions (d) and (e).

(2) For the third staffing-related violation in any 12-month period:

(A) The department may impose a civil penalty on the chronic dialysis clinic of up to two thousand dollars ($2,000).

(B) The department may impose a civil penalty on each responsible individual, if any, of up to five hundred dollars ($500).

(3) For the fourth staffing-related violation in any 12-month period:

(A) The department shall impose a civil penalty on the chronic dialysis clinic of not less than two thousand dollars ($2,000) and not more than five thousand dollars ($5,000).

(B) The department shall impose a civil penalty on each responsible individual, if any, of not less than two hundred dollars ($200) and not more than four thousand dollars ($4,000).

(c) Notwithstanding Section 1240, and subject to Section 1241, the department shall take the following action in the manner provided in this chapter. Action taken under this subdivision shall be in addition to actions required or authorized under subdivisions (d) and (e).

(1) For the first gross staffing-related violation in any 24-month period, the department may impose a civil penalty on the chronic dialysis clinic of not less than two thousand five hundred dollars ($2,500) and not more than five thousand dollars ($5,000).

(2) For the second gross staffing-related violation in any 24-month period, the department shall impose a civil penalty on the chronic dialysis clinic of not less than two thousand five hundred dollars ($2,500) and not more than ten thousand dollars ($10,000).

(3) For the third gross staffing-related violation in any 24-month period, the department shall impose a civil penalty on the chronic dialysis clinic of not less than five thousand dollars ($5,000) and not more than ten thousand dollars ($10,000), and may suspend the license issued to the chronic dialysis clinic for a period not to exceed 30 days.

(4) For the fourth gross staffing-related violation in any 24-month period, the department shall impose a civil penalty on the chronic dialysis clinic of not less than five thousand dollars ($5,000) and not more than ten thousand dollars ($10,000), and shall suspend the license issued to the chronic dialysis clinic for a period not to exceed 90 days.

(5) For the fifth gross staffing-related violation in any 24-month period:

(A) The department shall impose a civil penalty on the chronic dialysis clinic of not less than five thousand dollars ($5,000) and not more than ten thousand dollars ($10,000), and may revoke the license issued to the chronic dialysis clinic or, if the department does not revoke the license, the department shall suspend the license for a period not to exceed 180 days.

(B) For a period not to exceed 180 days, the department may refuse to issue or renew a license, and may refuse to authorize a transfer of an existing license, with respect to a chronic dialysis clinic owned or operated by the same, or an affiliated, governing entity of the chronic dialysis clinic at which the gross staffing-related violation occurred.

(6) For the sixth and each subsequent gross staffing-related violation in any 24-month period:

(A) The department may revoke the license issued to the chronic dialysis clinic or, if the department does not revoke the license, the department shall suspend the license for a period not to exceed one year.

(B) For a period not to exceed three years, the department may refuse to issue or renew a license, and may refuse to authorize a transfer of an existing license, with respect to a chronic dialysis clinic owned or operated by the same, or an affiliated, governing entity of the chronic dialysis clinic at which the gross staffing-related violation occurred.

(d) Following any enforcement action taken by the department under subdivision (b) or (c), the chronic dialysis clinic shall submit a corrective action plan to the department describing how the chronic dialysis clinic will avoid committing any further staffing-related violations or gross staffing-related violations, as applicable. The corrective action plan shall be reviewed and approved by the department.

(e) Notwithstanding Section 1240, and subject to Section 1241, the department shall take the following action with respect to a governing entity in the manner provided in this chapter. Action taken under this subdivision shall be in addition to action required or authorized under subdivisions (b), (c), and (d).

(1) Except as provided in paragraph (2), when chronic dialysis clinics owned or operated by a governing entity or affiliated governing entities commit, in the aggregate, 25 or more gross staffing-related violations within any 24-month period:

(A) The governing entity or governing entities shall submit a corrective action plan to the department describing affirmative steps the governing entity or governing entities and associated chronic dialysis clinics will take to prevent every chronic dialysis clinic owned or operated by the governing entity or governing entities from committing any further gross staffing-related violations. The corrective action plan shall be revised and approved by the department.

(B) The department may refuse to issue or renew a license, and may refuse to authorize a transfer of an existing license, to the governing entity or governing entities or a chronic dialysis clinic

owned or operated by the governing entity or governing entities, for a period that ends on or before the later of either:

(i) Three years after the latest gross staffing-related violation occurred.

(ii) The date on which the department is satisfied that the governing entity or governing entities and associated chronic dialysis clinics have taken all affirmative steps set forth in the corrective action plan submitted under subparagraph (A).

(2) When chronic dialysis clinics owned or operated by a governing entity or affiliated governing entities commit, in the aggregate, 50 or more gross staffing-related violations within any 24-month period:

(A) The governing entity or governing entities shall submit a corrective action plan to the department describing affirmative steps the governing entity or governing entities and associated chronic dialysis clinics will take to prevent every chronic dialysis clinic owned or operated by the governing entity or governing entities from committing any further gross staffing-related violations of any kind. The corrective action plan shall be revised and approved by the department.

(B) The department may revoke or suspend licenses issued to the governing entity or governing entities or any chronic dialysis clinic that they own or operate, and may refuse to issue, renew, or authorize a transfer of, a license to the governing entity or governing entities or any chronic dialysis clinic owned or operated by the governing entity or governing entities.

(f) (1) The department shall consider the factors described in paragraph (2) for all of the following:

(A) When determining the penalties to be imposed under subdivision (b).

(B) The revisions, if any, to corrective action plans submitted under subdivision (d) or (e).

(C) The extent to which to refuse to issue or transfer, to revoke, or to suspend a license under subdivision (c) or (e).

(D) Whether to take any other action authorized under subdivision (b), (c), or (e).

(2) The department shall consider all of the following factors when taking the actions described in paragraph (1):

(A) The duration and severity of the violation.

(B) The willfulness of the violation.

(C) The history of the chronic dialysis clinic or governing entity of noncompliance with Section 1226.4, including, but not limited to, the similarity in circumstances of the violation to any previous violation within a 24-month period.

(D) The ability and good faith effort of the chronic dialysis clinic, and any responsible individual, to have foreseen or avoided the violation.

(E) The good faith effort by the chronic dialysis clinic, and any responsible individual, to remedy the violation.

(F) The harm to any patient, or exacerbation of that harm, resulting from the violation.

(G) The extent to which the chronic dialysis clinic fully and completely reported the violation pursuant to subdivision (c) of Section 1226.4.

(g) Penalties collected pursuant to this section shall be used by the department to implement and enforce Section 1226.4 and this section.

(h) For purposes of Article 9 (commencing with Section 12650) of Chapter 6 of Part 2 of Division 3 of Title 2 of the Government Code, the information required to be provided under subdivision (d) of Section 1226.4 shall be deemed material to any claim for payment submitted by a chronic dialysis clinic within six months of the submission of that information.

(i) If a licensee disputes a determination by the department regarding the imposition of a penalty pursuant to this section, the licensee may, within 10 working days, request a hearing pursuant to Section 131071. Penalties shall be paid when all appeals have been exhausted and the department's position has been upheld.

SEC. 8. Section 1266.2 is added to the Health and Safety Code, to read:

1266.2. It is the intent of the Legislature that California taxpayers not be financially responsible for implementation and enforcement of minimum staffing requirements at chronic dialysis clinics. In order to effectuate that intent, when calculating, assessing, and collecting fees imposed on chronic dialysis clinics pursuant to Section 1266, the department shall take into account all costs associated with implementing and enforcing Sections 1226.4 and 1240.1.

SEC. 9. The State Department of Public Health shall issue regulations necessary to implement this act no later than 180 days following its effective date.

SEC. 10. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

~~SEC. 11. The Legislature finds and declares that Section 3 of this act, which adds Section 1226.4 to the Health and Safety Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:~~

~~In order to protect the privacy of employees and patients of chronic dialysis clinics, it is necessary that their names be redacted from the writings described in subdivision (g) of Section 1226.4 of the Health and Safety Code when those writings are made available to the public.~~

~~SEC. 12.~~

SEC. 11. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
May 10, 2017

BILL ANALYSIS

AUTHOR:	Portantino	**BILL NUMBER:**	AB 419
SPONSOR:	Portantino	**BILL STATUS:**	Senate Committee on Business, Professions and Economic Development
SUBJECT:	Medical practice: pain management	**DATE LAST AMENDED:**	April 17, 2017

SUMMARY:
Existing law, the California Uniform Controlled Substances Act, classifies controlled substances into 5 designated schedules, with the most restrictive limitations generally placed on controlled substances classified in Schedule I, and the least restrictive limitations generally placed on controlled substances classified in Schedule V. Existing law places oxycodone within Schedule II. Existing law requires a prescription for a controlled substance to only be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his or her professional practice. A violation of this provision is a crime.

As amended 3/20:
Deletes language, above, "A violation of this provision is a crime."

Adds this paragraph:
Existing law, the Medical Practice Act, provides for the licensing and regulation of physicians and surgeons by the Medical Board of California. Among other things, the act regulates the prescribing, dispensing, or furnishing of dangerous drugs, including oxycodone, by a licensee, and provides, under certain circumstances, for the imposition of an administrative fine pursuant to a citation by the board, or the imposition of a civil penalty for a violation of these provisions. A violation of designated provisions of the act is a crime.

As amended 4/17:
The subject of the bill has been changed from "Oxycodone: prescriptions" to "Medical practice: pain management."

The bill deletes the provisions of the bill as originally introduced and as amended 3/20. It now provides:
Existing law, the Controlled Substances Act, prohibits a person other than a physician, dentist, podiatrist, veterinarian, or certain other health care practitioners, in specified circumstances, from

writing or issuing a prescription. That act requires a prescription for specified controlled substances to be made on a specified controlled substance prescription form, to be signed and dated by the prescriber in ink, and to contain specified information.

That act requires a health care practitioner authorized to prescribe, order, administer, or furnish a controlled substance to consult the Controlled Substance Utilization Review and Evaluation System database to review a patient's controlled substance history before prescribing specified controlled substances to the patient for the first time, and at least once every 4 months thereafter if the substance remain part of the treatment of the patient, except as specified.

That act prohibits a person from prescribing, administering, or dispensing a controlled substance to an addict or any person representing himself or herself as an addict, except as specified. That act defines "addict" for this purpose, and excludes from the definition a person whose drug-seeking behavior is primarily due to the inadequate control of pain.

Existing law, the Pharmacy Law, imposes various requirements on the dispensing by prescription of dangerous drugs, including controlled substances. That law prohibits furnishing a prescription for a controlled substance transmitted by means of an oral or electronically transmitted order to any person unknown and unable to properly establish his or her identity.

ANALYSIS:
As introduced: This bill would prohibit a person from prescribing oxycodone, by whatever official, common, usual, chemical, or trade name designated, to a patient under 21 years of age.

Amended analysis as of 3/20:
This bill would prohibit a person from prescribing oxycodone, by whatever official, common, usual, chemical, or trade name designated, to a patient who is under 21 years of age. The bill would make a violation of this prohibition subject to a civil penalty, as specified.

The bill would also authorize a patient who was prescribed oxycodone in violation of the prohibition, and who sustained economic loss or personal injury as a result of that violation, to bring a civil action to recover compensatory damages, reasonable attorney's fees, and litigation costs.

Amended analysis as of 4/17:
Among other things, this bill would require a specified health care practitioner, before prescribing, ordering, or furnishing specified narcotic pain medications, including controlled substances, to a minor to educate the guardian of the minor on all other available medical treatments, specified nonopioid treatment alternatives to be tried before and alongside opioid therapy, the risks and benefits of narcotic medications and alternatives to narcotic medications, the safe storage of opioid medications, the proper disposal of unused medications, and the illegality of sharing or misusing prescribed medications.

The bill would also require this discussion and counseling to be memorialized in a document printed on a secure prescription pad and signed by the minor, if he or she was counseled, the guardian, and the prescriber.

The bill would require a pharmacist to review and verify the document before dispensing the medication. The bill would prohibit a subsequent prescription of those medications from being made until the minor is reevaluated by a pain management specialist or a pediatrician.

BOARD POSITION: Watch (4/5/17)

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Not previously considered

SUPPORT: None on file

OPPOSE:
California Chapter of the American College of Emergency Physicians
California Medical Association

AMENDED IN SENATE APRIL 17, 2017

AMENDED IN SENATE MARCH 20, 2017

SENATE BILL No. 419

Introduced by Senator Portantino

February 15, 2017

~~An act to add Section 2242.3 to the Business and Professions Code, relating to controlled substances.~~ *An act to amend Section 2241.6 of, and to add Section 4075.7 to, the Business and Professions Code, and to add Section 11167.7 to the Health and Safety Code, relating to healing arts.*

LEGISLATIVE COUNSEL'S DIGEST

SB 419, as amended, Portantino. ~~Oxycodone: prescriptions.~~ *Medical practice: pain management.*

Existing law, the Controlled Substances Act, prohibits a person other than a physician, dentist, podiatrist, veterinarian, or certain other health care practitioners, in specified circumstances, from writing or issuing a prescription. That act requires a prescription for specified controlled substances to be made on a specified controlled substance prescription form, to be signed and dated by the prescriber in ink, and to contain specified information. That act requires a health care practitioner authorized to prescribe, order, administer, or furnish a controlled substance to consult the Controlled Substance Utilization Review and Evaluation System database to review a patient's controlled substance history before prescribing specified controlled substances to the patient for the first time, and at least once every 4 months thereafter if the substance remain part of the treatment of the patient, except as specified. That act prohibits a person from prescribing, administering, or dispensing a controlled substance to an addict or any person

representing himself or herself as an addict, except as specified. That act defines "addict" for this purpose, and excludes from the definition a person whose drug-seeking behavior is primarily due to the inadequate control of pain. Existing law, the Pharmacy Law, imposes various requirements on the dispensing by prescription of dangerous drugs, including controlled substances. That law prohibits furnishing a prescription for a controlled substance transmitted by means of an oral or electronically transmitted order to any person unknown and unable to properly establish his or her identity. Existing law makes a violation of these provisions a crime.

This bill would require a specified health care practitioner, before prescribing, ordering, or furnishing specified narcotic pain medications, including controlled substances, to a minor, as defined, to educate the guardian of the minor on all other available medical treatments, specified nonopioid treatment alternatives to be tried before and alongside opioid therapy, the risks and benefits of narcotic medications and alternatives to narcotic medications, the safe storage of opioid medications, the proper disposal of unused medications, and the illegality of sharing or misusing prescribed medications. The bill would also require this discussion and counseling to be memorialized in a document printed on a secure prescription pad and signed by the minor, if he or she was counseled, the guardian, and the prescriber. The bill would require a pharmacist to review and verify the document before dispensing the medication. The bill would prohibit a subsequent prescription of those medications from being made until the minor is reevaluated by a pain management specialist or a pediatrician. By adding these new requirements to the Controlled Substances Act and the Pharmacy Law, the violation of which would be a crime, this bill would impose a state-mandated local program.

Existing law establishes the Medical Board of California within the Department of Consumer Affairs. Existing law, among other things, required the board to develop standards before June 1, 2002, to ensure the competent review in cases concerning the management, including, but not limited to, the undertreatment, undermedication, and overmedication of a patient's pain.

This bill would require the board, on or before July 1, 2018, to update those standards. The bill would also require the board to update those standards on or before July 1 each 5th year thereafter. The bill would require the board to convene a task force to develop and recommend the updated standards to the board. The bill would require the task

force, in developing the updated standards, to consult with specified entities.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law, the California Uniform Controlled Substances Act, classifies controlled substances into 5 designated schedules, with the most restrictive limitations generally placed on controlled substances classified in Schedule I, and the least restrictive limitations generally placed on controlled substances classified in Schedule V. Existing law places oxycodone within Schedule II. Existing law requires a prescription for a controlled substance to only be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his or her professional practice.~~

~~Existing law, the Medical Practice Act, provides for the licensing and regulation of physicians and surgeons by the Medical Board of California. Among other things, the act regulates the prescribing, dispensing, or furnishing of dangerous drugs, including oxycodone, by a licensee, and provides, under certain circumstances, for the imposition of an administrative fine pursuant to a citation by the board, or the imposition of a civil penalty for a violation of these provisions. A violation of designated provisions of the act is a crime.~~

~~This bill would prohibit a person from prescribing oxycodone, by whatever official, common, usual, chemical, or trade name designated, to a patient under 21 years of age, except as specified. The bill would make a violation of this prohibition subject to a civil penalty, as specified. The bill would also authorize a patient who was prescribed oxycodone in violation of the prohibition, and who sustained economic loss or personal injury as a result of that violation, to bring a civil action to recover compensatory damages, reasonable attorney's fees, and litigation costs.~~

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: ~~no~~ *yes*.

The people of the State of California do enact as follows:

SECTION 1. Section 2241.6 of the Business and Professions Code is amended to read:

~~2241.6. The Division of Medical Quality shall develop standards before June 1, 2002, to assure the competent review in cases concerning the management, including, but not limited to, the undertreatment, undermedication, and overmedication of a patient's pain. The division~~

2241.6. (a) (1) The board shall develop standards before June 1, 2002, to ensure the competent review in cases concerning the management, including, but not limited to, the undertreatment, undermedication, and overmedication of a patient's pain.

(2) The board may consult with entities such as the American Pain Society, the American Academy of Pain Medicine, the California Society of Anesthesiologists, the California Chapter of the American College of Emergency Physicians, and any other medical entity specializing in pain control therapies to develop the standards utilizing, to the extent they are applicable, current authoritative clinical practice guidelines.

(b) The board shall update the standards adopted pursuant to subdivision (a) on or before July 1, 2018, and on or before July 1 each fifth year thereafter.

(c) The board shall convene a task force to develop and recommend the updated standards to the board. The task force, in developing the updated standards, shall consult with the entities specified in paragraph (2) of subdivision (a), the American Cancer Society, and specialists in pharmacology and addiction medicine.

SEC. 2. Section 4075.7 is added to the Business and Professions Code, to read:

4075.7. (a) Before dispensing a prescription for a minor for a pain medication listed in Section 11167.7 of the Health and Safety Code, the pharmacist shall review and verify the disclosure and counseling document described in subdivision (c) of Section 11167.7 of the Health and Safety Code.

(b) For purposes of this section, "minor" shall have the same meaning as in Section 11167.7 of the Health and Safety Code.

SEC. 3. Section 11167.7 is added to the Health and Safety Code, to read:

11167.7. (a) For purposes of this section, the following definitions shall apply:

(1) "Minor" means a person under 18 years of age who is not any of the following:

(A) A cancer patient.

(B) A patient in hospice or palliative care.

(C) A patient who has been diagnosed with a terminal illness.

(2) "Guardian" means the legal guardian of the minor.

(b) A health care practitioner, except a veterinarian, authorized to prescribe, order, administer, or furnish oxycodone, hydrocodone, hydromorphone, morphine, codeine, oxymorphone, fentanyl, methadone, tramadol, or tapentadol to a minor shall, before prescribing, ordering, administering, or furnishing those medications, educate the guardian on all of the following:

(1) All other available medical treatments, other than the medication to be prescribed.

(2) Nonopioid treatment alternatives to be tried before and alongside opioid therapy, unless there is a specific adverse reaction or contraindication.

(3) The risks and benefits of narcotic medications and alternatives.

(4) The safe storage of opioid medications.

(5) The proper disposal of unused medications.

(6) The illegality of sharing or misusing prescribed medications.

(c) The discussion and counseling provided in subdivision (b) shall be memorialized in a document printed on a secure prescription pad and signed by the minor, if he or she was counseled, the guardian, and the prescriber.

(d) A subsequent prescription for the pain medications listed in subdivision (b) shall not be made until the minor is reevaluated by a pain management specialist or a pediatrician.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

~~SECTION 1. Section 2242.3 is added to the Business and Professions Code, to read:~~

~~2242.3. (a) (1) Notwithstanding any other law, a person shall not prescribe oxycodone, by whatever official, common, usual, chemical, or trade name designated, to a patient under 21 years of age.~~

~~(2) Paragraph (1) does not apply with respect to a patient of any age who is any of the following:~~

~~(A) A cancer patient.~~

~~(B) A patient in hospice or palliative care.~~

~~(C) A patient who has been diagnosed with a terminal illness.~~

~~(b) (1) Notwithstanding Section 2314 or any other law, a violation of this section may subject the person who has committed the violation to either a fine of up to five thousand dollars ($5,000) per violation pursuant to a citation issued by the board or a civil penalty of up to five thousand dollars ($5,000) per violation.~~

~~(2) The Attorney General may bring an action to enforce this section and to collect the fines or civil penalties authorized by paragraph (1).~~

~~(c) In addition to the penalties described in paragraph (1) of subdivision (b), a patient who was prescribed oxycodone in violation of subdivision (a), and who sustained economic loss or personal injury as a result of that violation, may bring an action to recover compensatory damages, as well as reasonable attorney's fees and costs.~~

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BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
May 10, 2017

BILL ANALYSIS

AUTHOR:	Bates	**BILL NUMBER:**	SB 457
SPONSOR:		**BILL STATUS:**	Senate Committee on Business, Professions and Economic Development
SUBJECT:	Out-of-hospital childbirths: physicians and surgeons: licensed midwives: certified nurse-midwives	**DATE LAST AMENDED:**	April 17, 2017

SUMMARY:
As introduced February 16, 2017, this bill's subject was Health facilities: outpatient settings. As amended April 17, the subject is now as shown above.

This analysis will address only those portions related to nurse-midwives.

1. Existing law, the Nursing Practice Act, provides for the licensure and regulation of certified nurse-midwives by the Board of Registered Nursing. A violation of the act is a crime.

Existing law authorizes a certified nurse-midwife, under the supervision of a licensed physician and surgeon, to attend cases of normal childbirth and to provide prenatal, intrapartum, and postpartum care, including family planning care, for the mother, and immediate care for the newborn, and provides that the practice of nurse-midwifery constitutes the furthering or undertaking by a certified person, under the supervision of a licensed physician and surgeon who has current practice or training in obstetrics, to assist a woman in childbirth so long as progress meets criteria accepted as normal.

Existing law authorizes a certified nurse-midwife to furnish and order drugs or devices incidentally to the provision of family planning services, routine health care or perinatal care, and care rendered consistent with the certified nurse-midwife's educational preparation or clinical competence to specified persons, and only in accordance with standardized procedures and protocols developed and approved by, among others, the supervising physician and surgeon.

Existing law establishes the Office of Statewide Health Planning and Development in state government and it has jurisdiction over health planning and research development.

2. Under existing law, an alternative birth center that is licensed as an alternative birth center specialty clinic is required to, as a condition of licensure, and a primary care clinic providing services as an alternative birth center is required to, meet specified certain requirements including requiring the presence of at least 2 attendants at all times during birth, one of whom is required to be a licensed physician and surgeon, licensed midwife, or a certified nurse-midwife.

ANALYSIS:
This bill revises and recasts these provisions by requiring that a licensed physician and surgeon, a licensed midwife, and a certified nurse-midwife only attend cases of pregnancy and out-of-hospital childbirth when specified conditions are met.

For purposes of determining whether a patient or client satisfies these conditions, the bill would require the licensed physician and surgeon, licensed certified nurse-midwife, or licensed midwife to use a self-screening form to identify patient or client risk factors for out-of-hospital childbirth.

The bill would specify those circumstances when a medical examination by a licensed physician and surgeon is required, when a licensed physician and surgeon, a licensed midwife, and a certified nurse-midwife is prohibited from attending cases of pregnancy and out-of-hospital childbirth, and when a licensed physician and surgeon, a licensed midwife, and a certified nurse-midwife would be required to initiate appropriate interventions, including transfer to a hospital, when a patient or client's health status changes.

The bill would make it unprofessional conduct for a licensed physician and surgeon, licensed midwife, or licensed certified nurse-midwife to attend to a case of out-of-hospital childbirth after a licensed physician and surgeon determines that the patient or client is at an increased risk due to her health status, as provided.

This bill would require licensed physician and surgeon, licensed midwife, or a licensed certified nurse-midwife attending to cases of out-of-hospital childbirths to make specified disclosures to a prospective patient or client and obtain consent, as provided. The bill would also require these licensees to provide the patient or client with the most recent versions of specified documents concerning out-of-hospital childbirths. The bill would also require the Medical Board of California and the Board of Registered Nursing to make those same documents publicly available on their Internet Web sites.

If a patient or client is transferred to a hospital, this bill would require the licensee to provide specified records and speak with the receiving physician and surgeon about the labor up to the point of the transfer. The bill would provide that the failure to comply with this requirement shall constitute unprofessional conduct.

The bill would also require the hospital, within a specified period of time, to report to the Office of Statewide Health Planning and Development each transfer of a patient, as specified. The bill would require the Office of Statewide Health Planning and Development to develop a form, subject to specified criteria, including that patient identifying information is protected, for purposes of implementing the hospital reporting requirement.

This bill would require each licensee caring for a patient or client planning an out-of-hospital birth to submit, within a specified period of time, a form to the Office of Statewide Health Planning and

Development indicating the initiation of care. The bill would also require each licensee who attends an out-of-hospital childbirth to annually submit a specified report to the Office of Statewide Health Planning and Development. The bill would require the Office of Statewide Health Planning and Development to, among other things, maintain the confidentiality of this information.

For consistency with the above provisions governing out-of-hospital childbirths, the bill would make conforming changes to the Licensed Midwifery Practice Act of 1993 and the Nursing Practice Act.

The bill would specify that a certified nurse-midwife is authorized to attend cases of out-of-hospital childbirth without physician and surgeon supervision when the provisions governing out-of-hospital childbirths are complied with. The bill would also authorize a licensed midwife and a certified nurse-midwife to administer, order, or use certain drugs and equipment.

2. This bill would require the client to be informed orally and in writing when no licensed physician and surgeon is present.

BOARD POSITION: Not previously considered

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Not previously considered

SUPPORT:
None identified

OPPOSE:
None identified

AMENDED IN SENATE APRIL 17, 2017

SENATE BILL No. 457

Introduced by Senator Bates

February 16, 2017

~~An act to amend Section 1248 of the Health and Safety Code, relating to health facilities.~~ *An act to amend Section 2507 of, to add Section 2746.54 to, to add Article 17 (commencing with Section 880) to Chapter 1 of Division 2 of, and to repeal Sections 2508, 2510, 2516 of, the Business and Professions Code, and to amend Section 1204.3 of the Health and Safety Code, relating to out-of-hospital childbirths.*

LEGISLATIVE COUNSEL'S DIGEST

SB 457, as amended, Bates. ~~Health facilities: outpatient settings.~~ *Out-of-Hospital Childbirths: physicians and surgeons: licensed midwives: certified nurse-midwives.*

(1) Existing law, the Medical Practice Act, provides for the licensure and regulation of physicians and surgeons by the Medical Board of California.

Existing law, the Licensed Midwifery Practice Act of 1993, provides for the licensure and regulation of midwives by the Medical Board of California. A violation of the act is a crime. Existing law authorizes a licensed midwife to attend cases of normal pregnancy and childbirth, but requires a midwife to immediately refer or transfer a client to a physician and surgeon if there are complications. Under the act, if a client of a licensed midwife is transferred to a hospital, the licensed midwife is required to provide records and speak with the receiving physician and surgeon about labor up to the point of the transfer. The act requires a hospital to report each transfer of a planned out-of-hospital birth to the Medical Board of California and the

California Maternal Quality Care Collaborative using a standardized form developed by the board. Under existing law, a midwife is authorized to directly obtain supplies and devices, obtain and administer drugs and diagnostic tests, order testing, and receive reports that are necessary to his or her practice of midwifery and consistent with his or her scope of practice.

Existing law, the Nursing Practice Act, provides for the licensure and regulation of certified nurse-midwives by the Board of Registered Nursing. A violation of the act is a crime. Existing law authorizes a certified nurse-midwife, under the supervision of a licensed physician and surgeon, to attend cases of normal childbirth and to provide prenatal, intrapartum, and postpartum care, including family planning care, for the mother, and immediate care for the newborn, and provides that the practice of nurse-midwifery constitutes the furthering or undertaking by a certified person, under the supervision of a licensed physician and surgeon who has current practice or training in obstetrics, to assist a woman in childbirth so long as progress meets criteria accepted as normal. Existing law authorizes a certified nurse-midwife to furnish and order drugs or devices incidentally to the provision of family planning services, routine health care or perinatal care, and care rendered consistent with the certified nurse-midwife's educational preparation or clinical competence to specified persons, and only in accordance with standardized procedures and protocols developed and approved by, among others, the supervising physician and surgeon.

Existing law establishes the Office of Statewide Health Planning and Development in state government and it has jurisdiction over health planning and research development.

This bill would revise and recast these provisions by requiring that a licensed physician and surgeon, a licensed midwife, and a certified nurse-midwife only attend cases of pregnancy and out-of-hospital childbirth, as defined, when specified conditions are met. For purposes of determining whether a patient or client satisfies these conditions, the bill would require the licensed physician and surgeon, licensed certified nurse midwife, or licensed midwife to use a self-screening form to identify patient or client risk factors for out-of-hospital childbirth. The bill would specify those circumstances when a medical examination by a licensed physician and surgeon is required, when a licensed physician and surgeon, a licensed midwife, and a certified nurse-midwife is prohibited from attending cases of pregnancy and out-of-hospital childbirth, and when a licensed physician and surgeon, a licensed

midwife, and a certified nurse-midwife would be required to initiate appropriate interventions, including transfer to a hospital, when a patient or client's health status changes. The bill would make it unprofessional conduct for a licensed physician and surgeon, licensed midwife, or licensed certified nurse-midwife to attend to a case of out-of-hospital childbirth after a licensed physician and surgeon determines that the patient or client is at an increased risk due to her health status, as provided.

This bill would require licensed physician and surgeon, licensed midwife, or a licensed certified nurse-midwife attending to cases of out-of-hospital childbirths to make specified disclosures to a prospective patient or client and obtain consent, as provided. The bill would also require these licensees to provide the patient or client with the most recent versions of specified documents concerning out-of-hospital childbirths. The bill would also require the Medical Board of California and the Board of Registered Nursing to make those same documents publicly available on their Internet Web sites.

If a patient or client is transferred to a hospital, this bill would require the licensee to provide specified records and speak with the receiving physician and surgeon about the labor up to the point of the transfer. The bill would provide that the failure to comply with this requirement shall constitute unprofessional conduct. The bill would also require the hospital, within a specified period of time, to report to the Office of Statewide Health Planning and Development each transfer of a patient, as specified. The bill would require the Office of Statewide Health Planning and Development to develop a form, subject to specified criteria, including that patient identifying information is protected, for purposes of implementing the hospital reporting requirement.

This bill would require each licensee caring for a patient or client planning an out-of-hospital birth to submit, within a specified period of time, a form to the Office of Statewide Health Planning and Development indicating the initiation of care. The bill would also require each licensee who attends an out-of-hospital childbirth to annually submit a specified report to the Office of Statewide Health Planning and Development. The bill would require the Office of Statewide Health Planning and Development to, among other things, maintain the confidentiality of this information.

For consistency with the above provisions governing out-of-hospital childbirths, the bill would make conforming changes to the Licensed Midwifery Practice Act of 1993 and the Nursing Practice Act. The bill

would specify that a certified nurse-midwife is authorized to attend cases of out-of-hospital childbirth without physician and surgeon supervision when the provisions governing out-of-hospital childbirths are complied with. The bill would also authorize a licensed midwife and a certified nurse-midwife to administer, order, or use certain drugs and equipment. Because a violation of these requirements by a licensed midwife or certified nurse-midwife would be a crime under their respective acts, the bill would impose a state-mandated local program.

(2) Under existing law, an alternative birth center that is licensed as an alternative birth center specialty clinic is required to, as a condition of licensure, and a primary care clinic providing services as an alternative birth center is required to, meet specified certain requirements including requiring the presence of at least 2 attendants at all times during birth, one of whom is required to be a licensed physician and surgeon, licensed midwife, or a certified nurse-midwife.

This bill would require the client to be informed orally and in writing when no licensed physician and surgeon is present.

(3) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law provides for the licensure and regulation of health facilities by the State Department of Public Health. Existing law prohibits the operation, management, conduct, or maintenance of an outpatient setting unless the outpatient setting is accredited by an accreditation agency that is approved by the Medical Board of California, licensed by the State Department of Public Health, as specified, or meets other criteria. Existing law defines an outpatient setting, in part, as a facility, clinic, unlicensed clinic, center, office, or other setting that is not part of a general acute care facility, as defined, that uses anesthesia, as specified.~~

~~This bill would make technical, nonsubstantive changes to those provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ *yes*. State-mandated local program: ~~no~~ *yes*.

The people of the State of California do enact as follows:

SECTION 1. Article 17 (commencing with Section 880) is added to Chapter 1 of Division 2 of the Business and Professions Code, to read:

Article 17. Out-of-Hospital Childbirths

880. (a) Notwithstanding any other law and except as provided in subdivisions (c) and (d), a licensed physician and surgeon, a licensed midwife, and a certified nurse-midwife shall only attend cases of pregnancy and out-of-hospital childbirth when all of the following conditions are met:

(1) There is no increased risk to the patient or client because of a disease or condition that could adversely affect the pregnancy and childbirth.

(2) The patient or client has not had prior uterine or abdominal surgery, including, but not limited to, myomectomy, hysterotomy, or prior caesarian section.

(3) There is a singleton fetus.

(4) There is a cephalic presentation by 36⁶⁄₇ completed weeks of pregnancy.

(5) The gestational age of the fetus is greater than 37⁶⁄₇ weeks and less than 42⁶⁄₇ completed weeks of pregnancy.

(6) Labor is spontaneous or manually induced after 39 weeks gestation.

(7) Transfer to a hospital setting can occur within 20 minutes from the initiation of the transfer.

(b) The licensed physician and surgeon, licensed certified nurse midwife, or licensed midwife, acting within their scope of practice, shall use a self-screening form to identify patient or client risk factors for out-of-hospital childbirth.

(c) If the patient or client meets the conditions specified in paragraphs (3) to (7), inclusive, of subdivision (a), but fails to meet the conditions specified in paragraph (1) or (2) of subdivision

(a) based on the risk factors identified by the self-screening form, the patient or client shall obtain a medical examination by a licensed physician and surgeon with privileges to practice obstetrics or gynecology. Under these circumstances, the licensed physician and surgeon, licensed midwife, or certified nurse midwife may only attend cases of out-of-hospital childbirth if a licensed physician and surgeon with privileges to practice obstetrics or gynecology determines, at the time of the examination, that the patient or client is not at an increased risk due to a disease or condition, that could adversely affect the pregnancy and childbirth.

(d) The licensed physician and surgeon, licensed midwife, or licensed certified nurse-midwife attending cases of pregnancy and out-of-hospital childbirth under this article shall continuously assess the patient or client for any evidence of a disease or condition that could adversely affect the pregnancy and childbirth. If any evidence of a disease or condition that could adversely affect the pregnancy and childbirth arise, the patient or client shall obtain a medical examination by a licensed physician and surgeon with privileges to practice obstetrics or gynecology or the licensed physician and surgeon, licensed midwife, or licensed certified nurse-midwife, shall initiate appropriate interventions, including transfer, first-responder emergency care or emergency transport.

(e) For the purposes of this article, "out-of-hospital childbirth" means childbirth in the home setting, an alternative birth center pursuant to pursuant to paragraph (4) of subdivision (b) of Section 1204 of the Health and Safety Code, or any other setting other than a facility as described in Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code, or a facility as described in Chapter 2.5 (commencing with Section 1440) of Division 2 of the Health and Safety Code.

(f) It shall constitute unprofessional conduct for a licensed physician and surgeon, licensed midwife, or licensed certified nurse-midwife to attend to a case of out-of-hospital childbirth after a licensed physician and surgeon with privileges in obstetrics or gynecology, pursuant to a medical examination under subdivision (c) or (d), determines that the patient or client is at an increased risk due to a disease or condition, that could adversely affect the pregnancy and childbirth. Notwithstanding any other law, a violation of this section shall not be a crime.

880.2. (a) A licensed physician and surgeon, licensed midwife, or a licensed certified nurse-midwife authorized to attend to cases of out-of-hospital childbirths pursuant to this article shall disclose in oral and written form to a prospective patient or client seeking care for a planned out-of-hospital childbirth, and obtain consent for, all of the following:

(1) All of the provisions of Section 880.

(2) The type of license held by the licensee and licensee number.

(3) A licensed midwife or certified nurse-midwife who attends cases of out-of-hospital childbirth without physician and surgeon supervision shall provide notice that the care being provided is not being supervised by a physician and surgeon.

(4) The practice settings in which the licensee practices.

(5) If the licensee does not have professional liability coverage for the care being provided in an out-of-hospital birth setting, he or she shall disclose that fact.

(6) The acknowledgment that if the patient or client is required to obtain an examination with a licensed physician and surgeon pursuant to subdivision (c) or (d) of Section 880, failure to do so may affect the patient or client's legal rights in any professional negligence actions against a physician and surgeon, a healing arts licensee, or hospital.

(7) There are conditions that will result in an examination from, or transfer of care to, a licensed physician and surgeon and if these conditions exist, the licensee will no longer be able to care for the patient or client in an out-of-hospital setting, beyond continuing care during the transition period to the physician and surgeon.

(8) The specific arrangements for examination by a physician and surgeon with privileges in obstetrics or gynecology for examination. The licensee shall not be required to identify a specific physician and surgeon.

(9) The specific arrangements for the transfer of care during the prenatal period, hospital transfer during the intrapartum and postpartum periods, and access to appropriate emergency medical services for patient or client and newborn, if necessary, and recommendations for preregistration at a hospital that has obstetric emergency services and is most likely to receive the transfer.

(10) If, during the course of care, the patient or client has or may have a condition indicating the need for a transfer to a hospital, that the licensee shall initiate the transfer.

(11) The availability of the text of laws regulating out-of-hospital childbirth and the procedure for reporting complaints to the appropriate licensing entity.

(12) Consultation by a licensee with a consulting physician and surgeon does not alone create a physician-patient relationship or any other relationship with the consulting physician and surgeon. The licensee shall inform the patient or client that he or she is an independent healing arts licensee and is solely responsible for the services he or she provides.

(b) The disclosure and consent form shall be signed by both the licensee and patient or client and a copy of the signed disclosure and consent form shall be placed in the patient or client's medical record.

(c) (1) The licensee shall provide the patient or client with the most recent versions of the following documents:

(A) The American College of Nurse-Midwives Clinical Bulletin entitled "Midwifery Provision of Home Birth Services."

(B) The American College of Obstetricians and Gynecologists on Obstetric Practice Committee Opinion #669: Planned Home Birth.

(C) Society of Maternal Fetal Medicine and the American College of Obstetricians and Gynecologists document entitled "Obstetrics Care Consensus: Levels of Maternal Care."

(2) The Medical Board of California and the Board of Registered Nursing shall make the most recent version of the documents specified in paragraph (1) publicly available on their Internet Web sites.

880.4. (a) If a patient or client is transferred to a hospital, the licensee shall provide records, including prenatal records, and speak with the receiving physician and surgeon about the labor up to the point of the transfer. The failure to comply with this section shall constitute unprofessional conduct. Notwithstanding any other law, a violation of this section shall not be a crime.

(b) The hospital shall report, in writing on a form developed by the Office of Statewide Health Planning and Development, within 30 days, each transfer of a patient who attempted a planned

out-of-hospital childbirth to the Office of Statewide Health Planning and Development. The standardized form shall include:

(1) Name and license number of the licensed physician and surgeon, certified nurse-midwife, or licensed midwife who attended the patient's planned out-of-hospital childbirth or out-of-hospital childbirth attempt.

(2) Name and license number of the accepting or admitting physician and surgeon or certified nurse midwife who assumed care of the patient.

(3) Name of the patient and patient identifying information.

(4) Name of the hospital or emergency center where the patient was transferred.

(5) Date of report.

(6) Whether the person or persons admitted was pregnant, the delivered mother, or newborn newborns.

(7) Whether there was a verbal handoff or if any prenatal records were obtained from the out-of-hospital childbirth attendant.

(8) Gestational age of the fetus or newborn in weeks and method of determination.

(9) Events triggering transfer including, but not limited to, pain management, excessive bleeding, fetal intolerance of labor, prolonged or nonprogressive labor with time in labor, maternal request for transfer, or the clinical judgment of the out-of-birth childbirth attendant.

(10) Presence of significant history and risk factors including, but not limited to, preterm less than 37$^{6}/_{7}$, postterm greater than 42$^{6}/_{7}$, prior uterine or abdominal surgery including prior cesarean section, Group B strep, multiple births, IUGR, IUFD, chorioamnionitis, bleeding, noncephalic presentation, gestational diabetes, morbid obesity (BMI >40), or preeclampsia.

(11) Method of delivery.

(12) Whether a caesarian section was performed.

(13) Place of delivery.

(14) FHR tracing on admission.

(15) Fetal presentation on admission.

(16) APGAR score of the newborn.

(17) Cord gases.

(18) Whether the newborn suffered any complications and was placed in the NICU.

(19) Whether the mother suffered any complications and was placed in the ICU.

(20) Duration of hospital stay for the mother and the newborn and newborns as of the date of the report and final disposition or status, if not released from the hospital, of the mother and newborn or newborns.

(c) The form described in subdivision (b) shall be constructed in a format to enable the hospital to transmit the information in paragraphs (4) to (20), inclusive, to the Office of Statewide Health Planning and Development in a manner that the licensees and the patient are anonymous and their identifying information is not transmitted to the office. The entire form containing information described in paragraphs (1) to (20), inclusive, of subdivision (b) shall be placed in the patient's medical record.

(d) The Office of Statewide Health Planning and Development may revise the reporting requirements for consistency with national and standards, as applicable.

880.6. (a) Each licensee caring for a patient or client planning an out-of-hospital birth shall submit, within 30 days of initial acceptance of a patient or client, a form indicating the initiation of care to the Office of Statewide Health Planning and Development. The office shall develop a standardized form.

(b) Each licensee who attends an out-of-hospital childbirth, including supervising a student midwife, shall annually report to the Office of Statewide Health Planning and Development. The report shall be submitted no later than March 30, for the prior calendar year, in a form specified by the office and shall contain all of the following:

(1) The licensee's name and license number.

(2) The calendar year being reported.

(3) The following information with regard to cases in California in which the licensee, or the student midwife supervised by a licensee, attended or assisted during the previous year when the intended place of birth at the onset of care was an out-of-hospital setting:

(A) The total number of patients or clients served as primary caregiver at the onset of prenatal care.

(B) The number by county of live births attended as primary caregiver.

(C) The number, by county, of cases of fetal demise, infant deaths, and maternal deaths attended as primary caregiver at the discovery of the demise or death.

(D) The number of patients or clients whose primary care was transferred to another health care practitioner during the antepartum period, and the reason for each transfer.

(E) The number, reason, and outcome for each elective hospital transfer during the intrapartum or postpartum period.

(F) The number, reason, and outcome for each urgent or emergency transport of an expectant mother in the antepartum period.

(G) The number, reason, and outcome for each urgent or emergency transport of an infant or mother during the intrapartum or immediate postpartum period.

(H) The number of planned out-of-hospital births at the onset of labor and the number of births completed in an out-of-hospital setting.

(I) The number of planned out-of-hospital births completed in an out-of-hospital setting that were any of the following:

(i) Twin births.

(ii) Multiple births other than twin births.

(iii) Presentations other than cephalic.

(iv) Vaginal births after cesarean section (VBAC).

(J) A brief description of any complications resulting in the morbidity or mortality of a mother or a neonate.

(K) Any other information prescribed by the Office of Statewide Health Planning and Development in regulations.

(c) The Office of Statewide Health Planning and Development shall maintain the confidentiality of the information submitted pursuant to this section, and shall not permit any law enforcement or regulatory agency to inspect or have copies made of the contents of any reports submitted pursuant to subdivisions (a) and (b) for any purpose, including, but not limited to, investigations for licensing, certification, or any other regulatory purposes.

(d) The Office of Statewide Health Planning and Development shall report to the appropriate board, by April 30, those licensees who have met the requirements of this section for that year.

(e) The Office of Statewide Health Planning and Development shall report the aggregate information collected pursuant to this section to the appropriate board by July 30 of each year. The

Medical Board of California and the Board of Registered Nursing shall include this information in its annual report to the Legislature.

(f) The Office of Statewide Health Planning and Development, with input from the appropriate licensing boards, may adjust the data elements required to be reported to better coordinate with other reporting systems, including the reporting system of the Midwives Alliance of North America (MANA), while maintaining the data elements unique to California. To better capture data needed for the report required by this section, the concurrent use of systems, including MANA's, by licensed midwives is encouraged.

(g) A failure to report under this section shall constitute unprofessional conduct. Notwithstanding any other law, a violation of this section shall not be a crime.

SEC. 2. Section 2507 of the Business and Professions Code is amended to read:

2507. (a) ~~The~~ *Notwithstanding any other law, the* license to practice midwifery authorizes the holder to attend cases of ~~normal pregnancy and childbirth, as defined in paragraph (1) of subdivision (b),~~ *out-of-hospital childbirth pursuant to Article 17 (commencing with Section 880),* and to provide prenatal, intrapartum, and postpartum ~~care, including family-planning care, for the mother,~~ *care related to the out-of-hospital childbirth for the client* and immediate care for the newborn.

(b) As used in this article, the practice of midwifery constitutes the furthering or undertaking by any licensed midwife to assist a ~~woman in childbirth as long as progress meets criteria accepted as normal.~~ *client in an out-of-hospital childbirth pursuant to pursuant to Article 17 (commencing with Section 880).*

~~(1) Except as provided in paragraph (2), a licensed midwife shall only assist a woman in normal pregnancy and childbirth, which is defined as meeting all of the following conditions:~~

~~(A) There is an absence of both of the following:~~

~~(i) Any preexisting maternal disease or condition likely to affect the pregnancy.~~

~~(ii) Significant disease arising from the pregnancy.~~

~~(B) There is a singleton fetus.~~

~~(C) There is a cephalic presentation.~~

~~(D) The gestational age of the fetus is greater than 37 6/7 weeks and less than 42 6/7 completed weeks of pregnancy.~~

~~(E) Labor is spontaneous or induced in an outpatient setting.~~

~~(2) If a potential midwife client meets the conditions specified in subparagraphs (B) to (E), inclusive, of paragraph (1), but fails to meet the conditions specified in subparagraph (A) of paragraph (1), and the woman still desires to be a client of the licensed midwife, the licensed midwife shall provide the woman with a referral for an examination by a physician and surgeon trained in obstetrics and gynecology. A licensed midwife may assist the woman in pregnancy and childbirth only if an examination by a physician and surgeon trained in obstetrics and gynecology is obtained and the physician and surgeon who examined the woman determines that the risk factors presented by her disease or condition are not likely to significantly affect the course of pregnancy and childbirth.~~

~~(3) The board shall adopt regulations pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part of 1 of Division 3 of Title 2 of the Government Code) specifying the conditions described in subparagraph (A) of paragraph (1).~~

(c) (1) If at any point during pregnancy, childbirth, or postpartum ~~care a client's condition deviates from normal, the licensed midwife shall immediately refer or transfer the client to a physician and surgeon.~~ *care, there is any evidence of a disease or condition that could adversely affect the pregnancy and childbirth arise, the client shall obtain a medical examination by a licensed physician and surgeon with privileges to practice obstetrics or gynecology pursuant to paragraph (b) of Section 880, or the licensed midwife shall initiate appropriate interventions, including immediate transfer, first-responder emergency care, or emergency transport.* The licensed midwife may consult and remain in consultation with the physician and surgeon after the ~~referral or~~ transfer.

(2) If a physician and surgeon determines that the client's condition or concern has been resolved such that the ~~risk factors presented by a woman's disease or condition are not likely to significantly affect the course of pregnancy or childbirth,~~ *client is not at an increased risk due to a disease or condition, that could adversely affect the pregnancy and childbirth,* the licensed midwife may resume ~~primary~~ care of the client and resume assisting the client during ~~her~~ *the* pregnancy, childbirth, or postpartum care.

(3) If a physician and surgeon determines the client's condition or concern has not been resolved as specified in paragraph ~~(2),~~ *(2) and is at an increased risk due to a disease or condition, that could adversely affect the pregnancy and childbirth,* the licensed midwife may provide concurrent care with a physician and surgeon and, if authorized by the client, be present during the labor and childbirth, and resume postpartum care, if appropriate. A licensed midwife shall not ~~resume primary care of the client.~~ *attend an out-of-hospital childbirth of the client.*

(d) A licensed midwife shall not provide or continue to provide midwifery care to a ~~woman with a risk factor that will significantly affect the course of~~ *client if a licensed physician and surgeon with privileges to practice obstetrics or gynecology determines, at the time of the examination, that the client is at an increased risk due to a disease or condition, that could adversely affect the pregnancy and childbirth as described in Article 17 (commencing with Section 880)* pregnancy and childbirth, regardless of whether the ~~woman~~ *client* has consented to this care or refused care by a physician or surgeon, except as provided in paragraph (3) of subdivision (c).

(e) The practice of midwifery does not include the assisting of childbirth by any artificial, forcible, or mechanical means, nor the performance of any version of these means.

~~(f) A midwife is authorized to directly obtain supplies and devices, obtain and administer drugs and diagnostic tests, order testing, and receive reports that are necessary to his or her practice of midwifery and consistent with his or her scope of practice.~~

(f) A licensed midwife may administer, order, or use any of the following:

(1) Postpartum antihemorrhagic drugs.

(2) Prophylactic opthalmic antibiotics.

(3) Vitamin K.

(4) RhoGAM.

(5) Local anesthetic medications.

(6) Intravenous fluids limited to lactated ringers, 5 percent dextrose with lactated ringers, and heparin and 0.9 percent sodium chloride for use in intravenous locks.

(7) Epinephrine for use in maternal anaphylaxis pending emergency transport.

(8) HBIG and GBV for neonates born to hepatitis B mothers, per current Centers for Disease Control guidelines.

(9) Antibiotics for intrapartum prophylaxis of Group B Betahemolytic Streptococcus (GBBS), per current Centers For Disease Control guidelines.

(10) Equipment incidental to the practice of out-of-hospital childbirth, specifically, dopplers, syringes, needles, phlebotomy equipment, suture, urinary catheters, intravenous equipment, amnihooks, airway suction devices, neonatal and adult resuscitation equipment, glucometer, and centrifuge.

(11) Equipment incidental to maternal care, specifically, compression stockings, maternity belts, breast pumps, diaphragms, and cervical caps.

(g) This article does not authorize a midwife to practice medicine or to perform surgery.

SEC. 3. Section 2508 of the Business and Professions Code is repealed.

~~2508. (a) A licensed midwife shall disclose in oral and written form to a prospective client as part of a client care plan, and obtain informed consent for, all of the following:~~

~~(1) All of the provisions of Section 2507.~~

~~(2) The client is retaining a licensed midwife, not a certified nurse-midwife, and the licensed midwife is not supervised by a physician and surgeon.~~

~~(3) The licensed midwife's current licensure status and license number.~~

~~(4) The practice settings in which the licensed midwife practices.~~

~~(5) If the licensed midwife does not have liability coverage for the practice of midwifery, he or she shall disclose that fact. The licensed midwife shall disclose to the client that many physicians and surgeons do not have liability insurance coverage for services provided to someone having a planned out-of-hospital birth.~~

~~(6) The acknowledgment that if the client is advised to consult with a physician and surgeon, failure to do so may affect the client's legal rights in any professional negligence actions against a physician and surgeon, licensed health care professional, or hospital.~~

~~(7) There are conditions that are outside of the scope of practice of a licensed midwife that will result in a referral for a consultation from, or transfer of care to, a physician and surgeon.~~

~~(8) The specific arrangements for the referral of complications to a physician and surgeon for consultation. The licensed midwife shall not be required to identify a specific physician and surgeon.~~

~~(9) The specific arrangements for the transfer of care during the prenatal period, hospital transfer during the intrapartum and postpartum periods, and access to appropriate emergency medical services for mother and baby if necessary, and recommendations for preregistration at a hospital that has obstetric emergency services and is most likely to receive the transfer.~~

~~(10) If, during the course of care, the client is informed that she has or may have a condition indicating the need for a mandatory transfer, the licensed midwife shall initiate the transfer.~~

~~(11) The availability of the text of laws regulating licensed midwifery practices and the procedure for reporting complaints to the Medical Board of California, which may be found on the Medical Board of California's Internet Web site.~~

~~(12) Consultation with a physician and surgeon does not alone create a physician-patient relationship or any other relationship with the physician and surgeon. The informed consent shall specifically state that the licensed midwife and the consulting physician and surgeon are not employees, partners, associates, agents, or principals of one another. The licensed midwife shall inform the patient that he or she is independently licensed and practicing midwifery and in that regard is solely responsible for the services he or she provides.~~

~~(b) The disclosure and consent shall be signed by both the licensed midwife and the client and a copy of the disclosure and consent shall be placed in the client's medical record.~~

~~(c) The Medical Board of California may prescribe the form for the written disclosure and informed consent statement required to be used by a licensed midwife under this section.~~

SEC. 4. Section 2510 of the Business and Professions Code is repealed.

~~2510. If a client is transferred to a hospital, the licensed midwife shall provide records, including prenatal records, and speak with the receiving physician and surgeon about labor up to the point of the transfer. The hospital shall report each transfer of a planned out-of-hospital birth to the Medical Board of California and the California Maternal Quality Care Collaborative using a standardized form developed by the board.~~

SEC. 5. Section 2516 of the Business and Professions Code is repealed.

~~2516. (a) Each licensed midwife who assists, or supervises a student midwife in assisting, in childbirth that occurs in an out-of-hospital setting shall annually report to the Office of Statewide Health Planning and Development. The report shall be submitted no later than March 30, for the prior calendar year, in a form specified by the board and shall contain all of the following:~~

~~(1) The midwife's name and license number.~~

~~(2) The calendar year being reported.~~

~~(3) The following information with regard to cases in California in which the midwife, or the student midwife supervised by the midwife, assisted during the previous year when the intended place of birth at the onset of care was an out-of-hospital setting:~~

~~(A) The total number of clients served as primary caregiver at the onset of care.~~

~~(B) The number by county of live births attended as primary caregiver.~~

~~(C) The number, by county, of cases of fetal demise, infant deaths, and maternal deaths attended as primary caregiver at the discovery of the demise or death.~~

~~(D) The number of women whose primary care was transferred to another health care practitioner during the antepartum period, and the reason for each transfer.~~

~~(E) The number, reason, and outcome for each elective hospital transfer during the intrapartum or postpartum period.~~

~~(F) The number, reason, and outcome for each urgent or emergency transport of an expectant mother in the antepartum period.~~

~~(G) The number, reason, and outcome for each urgent or emergency transport of an infant or mother during the intrapartum or immediate postpartum period.~~

~~(H) The number of planned out-of-hospital births at the onset of labor and the number of births completed in an out-of-hospital setting.~~

~~(I) The number of planned out-of-hospital births completed in an out-of-hospital setting that were any of the following:~~

~~(i) Twin births.~~

~~(ii) Multiple births other than twin births.~~

~~(iii) Breech births.~~

~~(iv) Vaginal births after the performance of a cesarean section.~~

~~(J) A brief description of any complications resulting in the morbidity or mortality of a mother or a neonate.~~

~~(K) Any other information prescribed by the board in regulations.~~

~~(b) The Office of Statewide Health Planning and Development shall maintain the confidentiality of the information submitted pursuant to this section, and shall not permit any law enforcement or regulatory agency to inspect or have copies made of the contents of any reports submitted pursuant to subdivision (a) for any purpose, including, but not limited to, investigations for licensing, certification, or regulatory purposes.~~

~~(c) The office shall report to the board, by April 30, those licensees who have met the requirements of subdivision (a) for that year.~~

~~(d) The board shall send a written notice of noncompliance to each licensee who fails to meet the reporting requirement of subdivision (a). Failure to comply with subdivision (a) will result in the midwife being unable to renew his or her license without first submitting the requisite data to the Office of Statewide Health Planning and Development for the year for which that data was missing or incomplete. The board shall not take any other action against the licensee for failure to comply with subdivision (a).~~

~~(e) The board, in consultation with the office and the Midwifery Advisory Council, shall devise a coding system related to data elements that require coding in order to assist in both effective reporting and the aggregation of data pursuant to subdivision (f). The office shall utilize this coding system in its processing of information collected for purposes of subdivision (f).~~

~~(f) The office shall report the aggregate information collected pursuant to this section to the board by July 30 of each year. The board shall include this information in its annual report to the Legislature.~~

~~(g) The board, with input from the Midwifery Advisory Council, may adjust the data elements required to be reported to better coordinate with other reporting systems, including the reporting system of the Midwives Alliance of North America (MANA), while maintaining the data elements unique to California. To better capture data needed for the report required by this section, the~~

~~concurrent use of systems, including MANA's, by licensed midwives is encouraged.~~

~~(h) Notwithstanding any other law, a violation of this section shall not be a crime.~~

SEC. 6. Section 2746.54 is added to the Business and Professions Code, to read:

2746.54. (a) Notwithstanding Section 2746.5 or any other law, a certified nurse-midwife may attend cases of out-of-hospital childbirth pursuant to Article 17 (commencing with Section 880), and to provide prenatal, intrapartum, and postpartum care, related to the out-of-hospital childbirth, for the client and immediate care for the newborn without physician and surgeon supervision.

(b) (1) If at any point during pregnancy, childbirth, or postpartum care there is any evidence of a disease or condition that could adversely affect the pregnancy and childbirth arise, the client shall obtain a medical examination by a licensed physician and surgeon with privileges to practice obstetrics or gynecology as described in Article 17 (commencing with Section 880), or the certified nurse midwife shall initiate appropriate interventions, including immediate transfer, first-responder emergency care, or emergency transport. The certified nurse-midwife may consult and remain in consultation with the physician and surgeon after the referral or transfer.

(2) If a physician and surgeon determines that the client's condition or concern has been resolved such that the risk factors presented by a client's disease or condition does not adversely affect the pregnancy or childbirth, the certified nurse midwife may resume care of the client and resume assisting the client during the pregnancy, out-of-hospital childbirth, or postpartum care.

(3) If a physician and surgeon determines the client's condition or concern has not been resolved as specified in paragraph (2), and is at an increased risk due to a disease or condition, that could adversely affect the pregnancy and childbirth, the certified nurse-midwife may provide concurrent care with a physician and surgeon and, if authorized by the client, be present during the labor and childbirth, and resume postpartum care, if appropriate. Notwithstanding any other law, under the circumstances described in this paragraph, a certified nurse-midwife shall not attend an out-of-hospital birth of the client unless under the supervision of a physician and surgeon pursuant to Section 2746.5.

(c) A certified nurse-midwife shall not provide or continue to provide care to a client if a licensed physician and surgeon with privileges to practice obstetrics or gynecology determines, at the time of the examination, that there is an increased risk to the client because of a disease or condition that could adversely affect the pregnancy and childbirth, as described in Article 17 (commencing with Section 880), regardless of whether the client has consented to this care or refused care by a physician or surgeon, except as provided in paragraph (3) of subdivision (b).

(d) This section does not include the assisting of childbirth by any artificial, forcible, or mechanical means, nor the performance of any version of these means.

(e) For purposes of attending an out-of-hospital childbirth pursuant to this section, and notwithstanding Section 2746.51, a certified nurse-midwife may administer, order, or use any of the following:

(1) Postpartum antihemorrhagic drugs.

(2) Prophylactic opthalmic antibiotics.

(3) Vitamin K.

(4) RhoGAM.

(5) Local anesthetic medications.

(6) Intravenous fluids limited to lactated ringers, 5 percent dextrose with lactated ringers, and heparin and 0.9 percent sodium chloride for use in intravenous locks.

(7) Epinephrine for use in maternal anaphylaxis pending emergency transport.

(8) HBIG and GBV for neonates born to hepatitis B mothers, per current Centers for Disease Control guidelines.

(9) Antibiotics for intrapartum prophylaxis of Group B Betahemolytic Streptococcus (GBBS), per current Centers For Disease Control guidelines.

(10) Equipment incidental to the practice of out-of-hospital childbirth, specifically, dopplers, syringes, needles, phlebotomy equipment, suture, urinary catheters, intravenous equipment, amnihooks, airway suction devices, neonatal and adult resuscitation equipment, glucometer, and centrifuge.

(11) Equipment incidental to maternal care, specifically, compression stockings, maternity belts, breast pumps, diaphragms, and cervical caps.

(f) This section does not authorize a nurse midwife to practice medicine or to perform surgery.

SEC. 7. Section 1204.3 of the Health and Safety Code is amended to read:

1204.3. (a) An alternative birth center that is licensed as an alternative birth center specialty clinic pursuant to paragraph (4) of subdivision (b) of Section 1204 shall, as a condition of licensure, and a primary care clinic licensed pursuant to subdivision (a) of Section 1204 that provides services as an alternative birth center shall, meet all of the following requirements:

(1) Be a provider of comprehensive perinatal services as defined in Section 14134.5 of the Welfare and Institutions Code.

(2) Maintain a quality assurance program.

(3) Meet the standards for certification established by the American Association of Birth Centers, or at least equivalent standards as determined by the state department.

(4) In addition to standards of the American Association of Birth Centers regarding proximity to hospitals and presence of attendants at births, meet both of the following conditions:

(A) Be located in proximity, in time and distance, to a facility with the capacity for management of obstetrical and neonatal emergencies, including the ability to provide cesarean section delivery, within 30 minutes from time of diagnosis of the emergency.

(B) Require the presence of at least two attendants at all times during birth, one of whom shall be a physician and surgeon, a licensed midwife, or a certified nurse-midwife. *If no licensed physician and surgeon is present, the client shall be informed orally and in writing that no licensed physician and surgeon is present.*

(5) Have a written policy relating to the dissemination of the following information to patients:

(A) A summary of current state laws requiring child passenger restraint systems to be used when transporting children in motor vehicles.

(B) A listing of child passenger restraint system programs located within the county, as required by Section 27362 of the Vehicle Code.

(C) Information describing the risks of death or serious injury associated with the failure to utilize a child passenger restraint system.

(b) The state department shall issue a permit to a primary care clinic licensed pursuant to subdivision (a) of Section 1204 certifying that the primary care clinic has met the requirements of this section and may provide services as an alternative birth center. Nothing in this section shall be construed to require that a licensed primary care clinic obtain an additional license in order to provide services as an alternative birth center.

(c) (1) Notwithstanding subdivision (a) of Section 1206, no place or establishment owned or leased and operated as a clinic or office by one or more licensed health care practitioners and used as an office for the practice of their profession, within the scope of their license, shall be represented or otherwise held out to be an alternative birth center licensed by the state unless it meets the requirements of this section.

(2) Nothing in this subdivision shall be construed to prohibit licensed health care practitioners from providing birth related services, within the scope of their license, in a place or establishment described in paragraph (1).

SEC. 8. The Legislature finds and declares that Section 1 of this act, which adds Section 880.6 to the Business and Professions Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

In order to allow the Office of Statewide Health Planning and Development to fully accomplish its goals, it is imperative to protect the interests of those persons submitting information to the office to ensure that any personal or sensitive information that this act requires those persons to submit is protected as confidential information.

SEC. 9. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or

infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

~~SECTION 1. Section 1248 of the Health and Safety Code is amended to read:~~

~~1248. For purposes of this chapter, the following definitions shall apply:~~

~~(a) "Division" means the Medical Board of California. All references in this chapter to the division, the Division of Licensing of the Medical Board of California, or the Division of Medical Quality shall be deemed to refer to the Medical Board of California pursuant to Section 2002 of the Business and Professions Code.~~

~~(b) (1) "Outpatient setting" means a facility, clinic, unlicensed clinic, center, office, or other setting that is not part of a general acute care facility, as defined in Section 1250, that uses anesthesia, except local anesthesia or peripheral nerve blocks, or both, in compliance with the community standard of practice, in doses that, when administered, have the probability of placing a patient at risk for loss of the patient's life-preserving protective reflexes.~~

~~(2) "Outpatient setting" also means a facility that offers in vitro fertilization, as defined in subdivision (b) of Section 1374.55.~~

~~(3) "Outpatient setting" does not include, among other settings, a setting where anxiolytics and analgesics are administered, when done so in compliance with the community standard of practice, in doses that do not have the probability of placing the patient at risk for loss of the patient's life-preserving protective reflexes.~~

~~(c) "Accreditation agency" means a public or private organization that is approved to issue certificates of accreditation to outpatient settings by the board pursuant to Sections 1248.15 and 1248.4.~~

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BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
May 10, 2017

BILL ANALYSIS

AUTHOR:	Stone	**BILL NUMBER:**	SB 554
SPONSOR:	Stone	**BILL STATUS:**	Senate Consent Calendar
SUBJECT:	Nurse practitioners: physician assistants: buprenorphine	**DATE LAST AMENDED:**	April 17, 2017

SUMMARY:
As introduced February 16th, the subject of this bill was "Nurse practitioners: independent practice." It was amended April 17th to the subject, above. Although it also applies to physician assistants, this analysis will reflect the laws and proposals that apply to nurse practitioners.

As introduced: Existing law, the Nursing Practice Act, provides for the licensure and regulation of nurse practitioners by the Board of Registered Nursing.

Existing law authorizes the implementation of standardized procedures that authorize a nurse practitioner to perform certain acts, including ordering durable medical equipment in accordance with standardized procedures, certifying disability for purposes of unemployment insurance after physical examination and collaboration with a physician and surgeon, and, for an individual receiving home health services or personal care services, approving, signing, modifying, or adding to a plan of treatment or plan of care after consultation with a physician and surgeon. A violation of these provisions is a crime.

Amended summary as of 4/17:
Existing federal law requires practitioners, as defined, who dispense narcotic drugs to individuals for maintenance treatment or detoxification treatment to obtain annually a separate registration with the United States Attorney General for that purpose.

Existing federal law authorizes waiver of the registration requirement for a qualifying practitioner who submits specified information to the United States Secretary of Health and Human Services.

Existing federal law, the Comprehensive Addiction Recovery Act of 2016, defines a qualifying practitioner for these purposes to include, among other practitioners, a nurse practitioner or physician assistant who, among other requirements, has completed not fewer than 24 hours of initial training, as specified, and is supervised by, or works in collaboration with, a qualifying physician, if the nurse practitioner or physician assistant is required by state law to prescribe medications for the treatment of opioid use disorder in collaboration with or under the supervision of a physician.

Existing state law, the Nursing Practice Act, establishes the Board of Registered Nursing in the Department of Consumer Affairs for the licensure and regulation of nurse practitioners. The act authorizes a nurse practitioner to furnish or order drugs or devices under specified circumstances subject to physician and surgeon supervision.

ANALYSIS:
As introduced: This bill would authorize a nurse practitioner who holds a certification from a national certifying body, recognized by the board, to be certified by the board as an independent nurse practitioner and to perform certain nursing functions without the supervision of a physician and surgeon, if the independent nurse practitioner meets specified requirements and practices in underserved geographic areas, as determined by the board.

The bill would prohibit a person from advertising, or holding himself or herself out as an "independent nurse practitioner," unless the person is certified by the board as an independent nurse practitioner pursuant to this bill.

Amended analysis as of 4/17:
This bill would prohibit construing the Nursing Practice Act or any provision of state law from prohibiting a nurse practitioner from furnishing or ordering buprenorphine when done in compliance with the provisions of the Comprehensive Addiction Recovery Act.

BOARD POSITION: Watch (4/5/17)

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Support (3/8/17)

SUPPORT:
None identified

OPPOSE:
None identified

AMENDED IN SENATE APRIL 17, 2017

AMENDED IN SENATE MARCH 27, 2017

SENATE BILL No. 554

Introduced by Senator Stone

February 16, 2017

An act to add ~~Article 8.5 (commencing with Section 2837.50) to Chapter 6 of Division 2 of~~ *Sections 2836.4 and 3502.1.5 to* the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 554, as amended, Stone. Nurse practitioners: ~~independent practice.~~ *physician assistants: buprenorphine.*

Existing federal law requires practitioners, as defined, who dispense narcotic drugs to individuals for maintenance treatment or detoxification treatment to obtain annually a separate registration with the United States Attorney General for that purpose. Existing federal law authorizes waiver of the registration requirement for a qualifying practitioner who submits specified information to the United States Secretary of Health and Human Services. Existing federal law, the Comprehensive Addiction Recovery Act of 2016, defines a qualifying practitioner for these purposes to include, among other practitioners, a nurse practitioner or physician assistant who, among other requirements, has completed not fewer than 24 hours of initial training, as specified, and is supervised by, or works in collaboration with, a qualifying physician, if the nurse practitioner or physician assistant is required by state law to prescribe medications for the treatment of opioid use disorder in collaboration with or under the supervision of a physician.

Existing state law, the Nursing Practice Act, establishes the Board of Registered Nursing in the Department of Consumer Affairs for the

licensure and regulation of nurse practitioners. The act authorizes a nurse practitioner to furnish or order drugs or devices under specified circumstances subject to physician and surgeon supervision.

This bill would prohibit construing the Nursing Practice Act or any provision of state law from prohibiting a nurse practitioner from furnishing or ordering buprenorphine when done in compliance with the provisions of the Comprehensive Addiction Recovery Act, as specified.

Existing state law, the Physician Assistant Practice Act, establishes the Physician Assistant Board within the jurisdiction of the Medical Board of California for the licensure and regulation of physician assistants. The act authorizes a physician assistant, while under the supervision of a licensed physician authorized to supervise a physician assistant, to administer or provide medication to a patient, or transmit orally, or in writing on a patient's record or in a drug order, an order to a person who may lawfully furnish the medication, as specified.

This bill would prohibit construing the Physician Assistant Practice Act or any provision of state law from prohibiting a physician assistant from administering or providing buprenorphine to a patient, or transmit orally, or in writing on a patient's record or in a drug order, an order for buprenorphine to a person who may lawfully furnish buprenorphine when done in compliance with the provisions of the Comprehensive Addiction Recovery Act, as specified.

~~Existing law, the Nursing Practice Act, provides for the licensure and regulation of nurse practitioners by the Board of Registered Nursing. Existing law authorizes the implementation of standardized procedures that authorize a nurse practitioner to perform certain acts, including ordering durable medical equipment in accordance with standardized procedures, certifying disability for purposes of unemployment insurance after physical examination and collaboration with a physician and surgeon, and, for an individual receiving home health services or personal care services, approving, signing, modifying, or adding to a plan of treatment or plan of care after consultation with a physician and surgeon. A violation of these provisions is a crime.~~

~~This bill would authorize a nurse practitioner who holds a certification from a national certifying body, recognized by the board, to be certified by the board as an independent nurse practitioner and to perform certain nursing functions without the supervision of a physician and surgeon, if the independent nurse practitioner meets specified requirements and practices in medically underserved areas or with medically underserved~~

~~populations, as defined by the federal Health Resources and Services Administration.~~

~~The bill would prohibit a person from advertizing or hold himself or herself out as an "independent nurse practitioner" unless the person is certified by the board as an independent nurse practitioner pursuant to this bill. By expanding the scope of an existing crime, this bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~ *no*. State-mandated local program: ~~yes~~ *no*.

The people of the State of California do enact as follows:

SECTION 1. Section 2836.4 is added to the Business and Professions Code, to read:

2836.4. Neither this chapter nor any other provision of law shall be construed to prohibit a nurse practitioner from furnishing or ordering buprenorphine when done in compliance with the provisions of the Comprehensive Addiction Recovery Act (P.L. 114-198), as enacted on July 22, 2016, including the following:

(a) The requirement that the nurse practitioner complete not fewer than 24 hours of initial training provided by the American Society of Addiction Medicine, the American Academy of Addiction Psychiatry, the American Medical Association, the American Osteopathic Association, the American Nurses Credentialing Center, the American Psychiatric Association, the American Association of Nurse Practitioners, the American Academy of Physician Assistants, or any other organization that addresses the following:

(1) Opioid maintenance and detoxification.

(2) Appropriate clinical use of all drugs approved by the Food and Drug Administration for the treatment of opioid use disorder.

(3) Initial and periodic patient assessments, including substance use monitoring.

(4) Individualized treatment planning, overdose reversal, and relapse prevention.

(5) Counseling and recovery support services.

(6) Staffing roles and considerations.

(7) Diversion control.

(8) Other best practices, as identified by the United States Secretary of Health and Human Services.

(b) The requirement that the nurse practitioner have other training or experience that the United States Secretary of Health and Human Services determines will demonstrate the ability of the nurse practitioner to treat and manage opiate-dependent patients.

(c) The requirement that the nurse practitioner be supervised by, or work in collaboration with, a licensed physician and surgeon.

SEC. 2. Section 3502.1.5 is added to the Business and Professions Code, to read:

3502.1.5. Neither this chapter nor any other provision of law shall be construed to prohibit a physician assistant from administering or providing buprenorphine to a patient, or transmitting orally, or in writing on a patient's record or in a drug order, an order to a person who may lawfully furnish buprenorphine when done in compliance with the provisions of the Comprehensive Addiction Recovery Act (P.L. 114-198), as enacted on July 22, 2016, including the following:

(a) The requirement that the physician assistant complete not fewer than 24 hours of initial training provided by the American Society of Addiction Medicine, the American Academy of Addiction Psychiatry, the American Medical Association, the American Osteopathic Association, the American Nurses Credentialing Center, the American Psychiatric Association, the American Association of Nurse Practitioners, the American Academy of Physician Assistants, or any other organization that addresses the following:

(1) Opioid maintenance and detoxification.

(2) Appropriate clinical use of all drugs approved by the Food and Drug Administration for the treatment of opioid use disorder.

(3) Initial and periodic patient assessments, including substance use monitoring.

(4) Individualized treatment planning, overdose reversal, and relapse prevention.

(5) Counseling and recovery support services.

(6) Staffing roles and considerations.

(7) Diversion control.

(8) Other best practices, as identified by the United States Secretary of Health and Human Services.

(b) The requirement that the physician assistant have other training or experience that the United States Secretary of Health and Human Services determines will demonstrate the ability of the nurse practitioner to treat and manage opiate-dependent patients.

(c) The requirement that the physician assistant be supervised by, or work in collaboration with, a licensed physician and surgeon.

~~SECTION 1. Article 8.5 (commencing with Section 2837.50) is added to Chapter 6 of Division 2 of the Business and Professions Code, to read:~~

~~Article 8.5. Independent Nurse Practitioners~~

~~2837.50. (a) The board shall establish the category of independent nurse practitioner and shall establish the qualifications and the scope of independent practice as set forth in this article.~~

~~(b) The qualifications for a certification by the board as an independent nurse practitioner shall include compliance with all of the following:~~

~~(1) Meeting all of the licensing requirements of Article 8 (commencing with Section 2834).~~

~~(2) Holding a certificate of independent nurse practitioner issued by a national certifying agency recognized by the board.~~

~~(c) Notwithstanding any law, the board shall specify the scope of practice of an independent nurse practitioner to include all of the following:~~

~~(1) The nursing practice of a nurse practitioner as set forth in Article 8 (commencing with Section 2834) performed under the supervision of a supervising physician and surgeon as set forth in that article.~~

~~(2) Specific aspects of the nursing practice of a nurse practitioner as set forth in Article 8 (commencing with Section 2834), including, but not limited to, standardized procedures, as set forth in Section 2725, that may be independently performed by an~~

~~independent nurse practitioner. Functions identified by the board pursuant to this paragraph may be performed by an independent nurse practitioner, certified pursuant to this article, without the supervision of a physician and surgeon. An independent nurse practitioner shall be authorized to practice independently pursuant to this paragraph only in medically underserved areas or with medically underserved populations, as defined by the federal Health Resources and Services Administration.~~

~~(d) No person shall advertise or hold himself or herself out as an "independent nurse practitioner" unless the person is certified by the board as an independent nurse practitioner pursuant to this article.~~

~~SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.~~

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BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
May 10, 2017

BILL ANALYSIS

AUTHOR:	Dababneh	**BILL NUMBER:**	AB 241
SPONSOR:	Dababneh	**BILL STATUS:**	Assembly Committee on Appropriations
SUBJECT:	Personal information: privacy: state and local agency breach	**DATE LAST AMENDED:**	Introduced

SUMMARY:
Require a public agency to offer to provide no less than 12 months of identity theft prevention and mitigation services at no cost to the person affected by a data security breach.

ANALYSIS:

Existing Law:

- Requires a person or business that owns or licenses computerized personal data to immediately notify the owner or licensee disclose a data security breach to a California resident whose unencrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person.
- Requires a public agency that maintains computerized personal data to immediately disclose a data security breach to a California resident whose unencrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person.
- Requires a person or business that is the source of the personal data security breach to offer to provide no less than 12 months of appropriate identity theft prevention and mitigation services at no cost to the affected person if the breach exposed or may have exposed the person's social security number, driver's license number, or California identification card number.

This Bill Would:

- Require a public agency that is the source of the personal data security breach to offer to provide no less than 12 months of appropriate identity theft prevention and mitigation services at no cost to the affected person if the breach exposed or may have exposed the person's social security number, driver's license number, or California identification card number.
- This bill would make other clarifying and nonsubstantiative changes.

Fiscal Impact:
Unknown

Comments:

AB 259 (Dababneh) was previously introduced during the 2015-16 legislative session with identical language. The bill passed Assembly, but later held on Senate Appropriations suspense file. The Board did not take a position on that bill.

BOARD POSITION: Not previously considered

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Not previously considered

SUPPORT:
- Association of California Life & Health Insurance Companies
- California Bankers Association
- California Business Properties Association
- California Cable and Telecommunications Association
- California Chamber of Commerce
- California Grocers Association
- Computing Technology Industry Association – CompTIA
- Los Angeles County Professional Peace Officers Association
- Organization of SMUD Employees
- Personal Insurance Federation of California
- San Diego Court Employees
- San Luis Obispo County Employees

OPPOSE:
- California State Association of Counties
- League of California Cities
- Urban Counties of California

ASSEMBLY BILL No. 241

Introduced by Assembly Member Dababneh
(Coauthor: Assembly Member Reyes)

January 30, 2017

An act to amend Section 1798.29 of the Civil Code, relating to personal information.

LEGISLATIVE COUNSEL'S DIGEST

AB 241, as introduced, Dababneh. Personal information: privacy: state and local agency breach.

Existing law requires a person or business conducting business in California and any state or local agency, as defined, that owns or licenses computerized data that includes personal information, as defined, to disclose a breach in the security of the data to a resident of California whose unencrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person in the most expedient time possible and without unreasonable delay, as specified. Existing law requires a person or business, if it was the source of the breach, to offer to provide appropriate identity theft prevention and mitigation services at no cost to the person whose information was or may have been breached if the breach exposed or may have exposed the person's social security number, driver's license number, or California identification card number.

This bill also would require a state or local agency, if it was the source of the breach, to offer to provide appropriate identity theft prevention and mitigation services at no cost to a person whose information was or may have been breached if the breach exposed or may have exposed

the person's social security number, driver's license number, or California identification card number.

The bill would make other clarifying and nonsubstantive changes.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 1798.29 of the Civil Code is amended to read:

1798.29. (a) ~~Any~~ *An* agency that owns or licenses computerized data that includes personal information shall disclose ~~any~~ *a* breach of the security of the system following discovery or notification of the breach in the security of the data to ~~any~~ *a* resident of California (1) whose unencrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person, or, (2) whose encrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person and the encryption key or security credential was, or is reasonably believed to have been, acquired by an unauthorized person and the agency that owns or licenses the encrypted information has a reasonable belief that the encryption key or security credential could render that personal information readable or useable. The disclosure shall be made in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement, as provided in subdivision (c), or any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

(b) ~~Any~~ *An*agency that maintains computerized data that includes personal information that the agency does not own shall notify the owner or licensee of the information of ~~any~~ *the* breach of the security of the data immediately following discovery, if the personal information was, or is reasonably believed to have been, acquired by an unauthorized person.

(c) The notification required by this section may be delayed if a law enforcement agency determines that the notification will impede a criminal investigation. The notification required by this section shall be made *promptly* after the law enforcement agency determines that it will not compromise the investigation.

(d) ~~Any~~ *An* agency that is required to issue a security breach notification pursuant to this section shall meet all of the following requirements:

(1) The security breach notification shall be written in plain language, shall be titled "Notice of Data Breach," and shall present the information described in paragraph (2) under the following headings: "What Happened," "What Information Was Involved," "What We Are Doing," "What You Can Do," and "For More Information." Additional information may be provided as a supplement to the notice.

(A) The format of the notice shall be designed to call attention to the nature and significance of the information it contains.

(B) The title and headings in the notice shall be clearly and conspicuously displayed.

(C) The text of the notice and any other notice provided pursuant to this section shall be no smaller than 10-point type.

(D) For a written notice described in paragraph (1) of subdivision (i), use of the model security breach notification form prescribed below or use of the headings described in this paragraph with the information described in paragraph (2), written in plain language, shall be deemed to be in compliance with this subdivision.

[NAME OF INSTITUTION / LOGO]	Date: [insert date]
NOTICE OF DATA BREACH	
What Happened?	
What Information Was Involved?	

What We Are Doing.	
What You Can Do.	
Other Important Information. [insert other important information]	
For More Information.	Call [telephone number] or go to [Internet Web site]

(E) For an electronic notice described in paragraph (2) of subdivision (i), use of the headings described in this paragraph with the information described in paragraph (2), written in plain language, shall be deemed to be in compliance with this subdivision.

(2) The security breach notification described in paragraph (1) shall include, at a minimum, the following information:

(A) The name and contact information of the reporting agency subject to this section.

(B) A list of the types of personal information that were or are reasonably believed to have been the subject of a breach.

(C) If the information is possible to determine at the time the notice is provided, then any of the following: (i) the date of the breach, (ii) the estimated date of the breach, or (iii) the date range within which the breach occurred. The notification shall also include the date of the notice.

(D) Whether the notification was delayed as a result of a law enforcement investigation, if that information is possible to determine at the time the notice is provided.

(E) A general description of the breach incident, if that information is possible to determine at the time the notice is provided.

(F) The toll-free telephone numbers and addresses of the major credit reporting agencies, if the breach exposed a social security number or a driver's license or California identification card number.

(G) If the agency providing the notification was the source of the breach, an offer to provide appropriate identity theft prevention and mitigation services, if any, shall be provided at no cost to the affected person for not less than 12 months, along with all information necessary to take advantage of the offer to a person whose information was or may have been breached if the breach exposed or may have exposed personal information defined in subparagraphs (A) and (B) of paragraph (1) of subdivision (g).

(3) At the discretion of the agency, the security breach notification may also include any of the following:

(A) Information about what the agency has done to protect individuals whose information has been breached.

(B) Advice on steps that the person whose information has been breached may take to protect himself or herself.

(e) ~~Any~~ *An* agency that is required to issue a security breach notification pursuant to this section to more than 500 California residents as a result of a single breach of the security system shall electronically submit a single sample copy of that security breach notification, excluding any personally identifiable information, to the Attorney General. A single sample copy of a security breach notification shall not be deemed to be within subdivision (f) of Section 6254 of the Government Code.

(f) For purposes of this section, "breach of the security of the system" means unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of personal information maintained by the agency. Good faith acquisition of personal information by an employee or agent of the agency for the purposes of the agency is not a breach of the security of the system, provided that the personal information is not used or subject to further unauthorized disclosure.

(g) For purposes of this section, "personal information" means either of the following:

(1) An individual's first name or first initial and last name in combination with any one or more of the following data elements, when either the name or the data elements are not encrypted:

(A) Social security number.

(B) Driver's license number or California identification card number.

(C) Account number or credit or debit card number, in combination with any required security code, access code, or password that would permit access to an individual's financial account.

(D) Medical information.

(E) Health insurance information.

(F) Information or data collected through the use or operation of an automated license plate recognition system, as defined in Section 1798.90.5.

(2) A user name or email address, in combination with a password or security question and answer that would permit access to an online account.

(h) (1) For purposes of this section, "personal information" does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

(2) For purposes of this section, "medical information" means any information regarding an individual's medical history, mental or physical condition, or medical treatment or diagnosis by a health care professional.

(3) For purposes of this section, "health insurance information" means an individual's health insurance policy number or subscriber identification number, any unique identifier used by a health insurer

to identify the individual, or any information in an individual's application and claims history, including any appeals records.

(4) For purposes of this section, "encrypted" means rendered unusable, unreadable, or indecipherable to an unauthorized person through a security technology or methodology generally accepted in the field of information security.

(i) For purposes of this section, "notice" may be provided by one of the following methods:

(1) Written notice.

(2) Electronic notice, if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in Section 7001 of Title 15 of the United States Code.

(3) Substitute notice, if the agency demonstrates that the cost of providing notice would exceed two hundred fifty thousand dollars ($250,000), or that the affected class of subject persons to be notified exceeds 500,000, or the agency does not have sufficient contact information. Substitute notice shall consist of all of the following:

(A) Email notice when the agency has an email address for the subject persons.

(B) Conspicuous posting, for a minimum of 30 days, of the notice on the agency's Internet Web site page, if the agency maintains one. For purposes of this subparagraph, conspicuous posting on the agency's Internet Web site means providing a link to the notice on the home page or first significant page after entering the Internet Web site that is in larger type than the surrounding text, or in contrasting type, font, or color to the surrounding text of the same size, or set off from the surrounding text of the same size by symbols or other marks that call attention to the link.

(C) Notification to major statewide media and the Office of Information Security within the Department of Technology.

(4) In the case of a breach of the security of the system involving personal information defined in paragraph (2) of subdivision (g) for an online account, and no other personal information defined in paragraph (1) of subdivision (g), the agency may comply with this section by providing the security breach notification in electronic or other form that directs the person whose personal information has been breached to promptly change his or her password and security question or answer, as applicable, or to take

other steps appropriate to protect the online account with the agency and all other online accounts for which the person uses the same user name or email address and password or security question or answer.

(5) In the case of a breach of the security of the system involving personal information defined in paragraph (2) of subdivision (g) for login credentials of an email account furnished by the agency, the agency shall not comply with this section by providing the security breach notification to that email address, but may, instead, comply with this section by providing notice by another method described in this subdivision or by clear and conspicuous notice delivered to the resident online when the resident is connected to the online account from an Internet Protocol address or online location from which the agency knows the resident customarily accesses the account.

(j) Notwithstanding subdivision (i), an agency that maintains its own notification procedures as part of an information security policy for the treatment of personal information and is otherwise consistent with the timing requirements of this part shall be deemed to be in compliance with the notification requirements of this section if it notifies subject persons in accordance with its policies in the event of a breach of security of the system.

(k) Notwithstanding the exception specified in paragraph (4) of subdivision (b) of Section 1798.3, for purposes of this section, "agency" includes a local agency, as defined in subdivision (a) of Section 6252 of the Government Code.

(*l*) For purposes of this section, "encryption key" and "security credential" mean the confidential key or process designed to render the data useable, readable, and decipherable.

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BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
May 10, 2017

BILL ANALYSIS

AUTHOR:	Flora	**BILL NUMBER:**	AB 703
SPONSOR:	Flora	**BILL STATUS:**	Assembly Committee on Business and Professions
SUBJECT:	Professions and vocations: licenses: fee waivers	**DATE LAST AMENDED:**	Introduced

SUMMARY:
This bill requires each board under the Department of Consumer Affairs to grant a fee waiver for the application and issuance of an initial license if the applicant's spouse is on active military service in the state and if the applicant is licensed in the same profession in another state, district, or territory.

ANALYSIS:
Existing Law:
- Provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs
- The Nursing Practice Act provides for the licensure and regulation of registered nurses by the Board of Registered Nursing
- Requires a board within the department to expedite the licensure process for an applicant who is married to, or in a domestic partnership or other legal union with, an active duty member of the military who is assigned to a duty station in this state and who holds a current license in the same profession or vocation in another state, district, or territory
- Requires a board to issue temporary licenses in specified professions – including registered nurses – to applicants as described above if certain requirements are met.

This Bill:
- Requires every board within the Department of Consumer Affairs to grant a fee waiver for application and issuance of an initial license for an applicant who is married to, or in a domestic partnership or other legal union with, an active duty member of the military and who holds a current license in the same profession or vocation in another state, district, or territory.
- Requires that an applicant be granted fee waivers for both the application for and issuance of a license if the board charges fees for both.
- Prohibit fee waivers from being issued for renewal of a license, for an additional license, a certificate, a registration, or a permit associated with the initial license, or for the application for an examination.

Fiscal Impact:
The bill will have a negative fiscal impact of $35,000 annually from loss in revenue.

Comment:
According to the bill author, AB 703 intends to support military families by easing the administrative and financial burden they face when moving to California for military duty.

BOARD POSITION: Not yet considered

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Not yet considered

SUPPORT: None on file

OPPOSE: None on file

ASSEMBLY BILL No. 703

Introduced by Assembly Member Flora

February 15, 2017

An act to add Section 115.7 to the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 703, as introduced, Flora. Professions and vocations: licenses: fee waivers.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law requires a board within the department to expedite the licensure process for an applicant who is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in this state if the applicant holds a current license in the same profession or vocation in another state, district, or territory. Existing law also requires a board to issue temporary licenses in specified professions to applicants as described above if certain requirements are met.

This bill would require every board within the Department of Consumer Affairs to grant a fee waiver for application and issuance of an initial license for an applicant who is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States if the applicant holds a current license in the same profession or vocation in another state, district, or territory. The bill would require that an applicant be granted fee waivers for both the application for and issuance of a license if the board charges fees for both. The bill would prohibit fee waivers from being issued for

renewal of a license, for an additional license, a certificate, a registration, or a permit associated with the initial license, or for the application for an examination.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 115.7 is added to the Business and Professions Code, to read:

115.7. (a) Notwithstanding any other law, every board within the department of Consumer Affairs shall grant a fee waiver for the application for and issuance of an initial license to an applicant who does both of the following:

(1) Supplies satisfactory evidence of being married to, or in a domestic partnership or other legal union with an active duty member of the Armed Forces of the United States.

(2) Holds a current, active, and unrestricted license that confers upon him or her the authority to practice, in another state, district, or territory of the United States, the profession or vocation for which he or she seeks a license from the board.

(b) If a board charges a fee for the application for a license and another fee for the issuance of a license, the applicant shall be granted fee waivers for both the application for and issuance of a license.

(c) A fee waiver shall not be issued for any of the following:

(1) Renewal of an existing California license.

(2) The application for and issuance of an additional license, a certificate, a registration, or a permit associated with the initial license.

(3) The application for an examination.

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BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
May 10, 2017

BILL ANALYSIS

AUTHOR:	Wood	**BILL NUMBER:**	AB 710
SPONSOR:	Wood	**BILL STATUS:**	Assembly
SUBJECT:	Department of Consumer Affairs: boards: meetings	**DATE LAST AMENDED:**	April 27, 2017

SUMMARY:
This bill requires boards under the Department of Consumer Affairs to meet once every other year in rural California.

ANALYSIS:
Existing law:
- Provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs
- Notwithstanding any other law, requires boards under the Department of Consumer Affairs to meet at least three times each calendar year with at least one meeting in northern California and one meeting in southern California
- Requires the Board of Registered Nursing to meet at least once every three months, at times and places it designates by resolution. Meetings shall be held in northern and southern California

This bill would:
- Require a board to meet once every other calendar year in rural California

Fiscal impact:
- Potentially increased costs associated travel

Comments:
- According to the bill author, AB 710 will ensure that rural communities have a fair opportunity to have their voices heard at board meetings.

BOARD POSITION: Not previously considered

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Not previously considered

SUPPORT: None identified

OPPOSE: Note identified

AMENDED IN ASSEMBLY APRIL 27, 2017

AMENDED IN ASSEMBLY MARCH 27, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL No. 710

Introduced by Assembly Member Wood

February 15, 2017

An act to amend Section 101.7 of the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 710, as amended, Wood. Department of Consumer Affairs: boards: meetings.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law generally requires these boards to meet at least 3 times each calendar year, and at least once in northern California and once in southern California per calendar year.

This bill would require a board to meet once every other calendar year in rural ~~northern~~ California.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 101.7 of the Business and Professions Code is amended to read:

101.7. (a) Notwithstanding any other provision of law, boards shall meet at least three times each calendar year. Boards shall

meet at least once each calendar year in northern California, once every other calendar year in rural ~~northern~~ California, and once each calendar year in southern California in order to facilitate participation by the public and its licensees.

(b) The director at his or her discretion may exempt any board from the requirement in subdivision (a) upon a showing of good cause that the board is not able to meet at least three times in a calendar year.

(c) The director may call for a special meeting of the board when a board is not fulfilling its duties.

(d) An agency within the department that is required to provide a written notice pursuant to subdivision (a) of Section 11125 of the Government Code, may provide that notice by regular mail, email, or by both regular mail and email. An agency shall give a person who requests a notice the option of receiving the notice by regular mail, email, or by both regular mail and email. The agency shall comply with the requester's chosen form or forms of notice.

(e) An agency that plans to Web cast a meeting shall include in the meeting notice required pursuant to subdivision (a) of Section 11125 of the Government Code a statement of the board's intent to Web cast the meeting. An agency may Web cast a meeting even if the agency fails to include that statement of intent in the notice.

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BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
May 10, 2017

BILL ANALYSIS

AUTHOR:	Calderon	**BILL NUMBER:**	AB 762
SPONSOR:	Calderon	**BILL STATUS:**	Assembly Business & Professions
SUBJECT:	Healing arts licensee: license activation fee: waiver	**DATE LAST AMENDED:**	4/17/2017

SUMMARY:
This bill authorizes an agency to issue a 30-day fix-it ticket in lieu of a fine.

ANALYSIS:
Existing law:
- A violation of a regulatory act by a licensee can subject a licensee to discipline, including administrative penalties or citations, suspension, or revocation of the license.
- Specifies that whenever any provision of law governing businesses and professions grants authority to issue a citation for a violation of a code provision, that authority also includes the authority to issue a citation for the violation of any regulation adopted pursuant to code.

Amended analysis as of 5/1/2017:
This bill would:
- Authorize boards, bureaus, commissions, committees, and similarly constituted agencies that license and regulate professions and vocations, when granted the authority to issue a citation, to instead issue a fix-it ticket in lieu of a fine.
- Specify that any person who is issued a fix-it ticket in lieu of a citation would have 30 days in which to correct the violation before being issued the fine.

Fiscal impact:
- Unknown

Comments:
- The Board previously took a "Watch" position on AB 1005. However, that version contained spot language.
- According to the bill author's office, AB 1005 will be amended to only apply to non-healing arts boards. However, as of the date of this analysis (5/1/2017), AB 1005 has not yet been amended.

BOARD POSITION: Watch (4/5/2017)

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Not previously considered

SUPPORT: None identified

OPPOSE: Note identified

AMENDED IN ASSEMBLY APRIL 17, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL No. 1005

Introduced by Assembly Member Calderon

February 16, 2017

An act to ~~add Section 139.2 to~~ *amend Section 12.5 of* the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 1005, as amended, Calderon. ~~Department of Consumer Affairs.~~ *Professions and vocations: fines: relief.*

Under existing law, the Department of Consumer Affairs is under the control of the Director of Consumer Affairs and is comprised of various boards, bureaus, commissions, committees, and similarly constituted agencies that license and regulate the practice of various professions and vocations. A violation of a regulatory act by a licensee can subject a licensee to discipline, including administrative penalties or citations, suspension, or revocation of the license. Existing law specifies that whenever any provision of law governing businesses and professions grants authority to issue a citation for a violation of a code provision, that authority also includes the authority to issue a citation for the violation of any regulation adopted pursuant to code.

This bill would authorize boards, bureaus, commissions, committees, and similarly constituted agencies that license and regulate professions and vocations, when granted the authority to issue a citation, to instead issue a fix-it ticket in lieu of a fine. The bill would specify that any person who is issued a fix-it ticket in lieu of a citation would have 30 days in which to correct the violation before being issued the fine.

~~Under existing law, there is the Office of Professional Examination Services within the Department of Consumer Affairs. Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs.~~

~~This bill would require the office to conduct an occupational analysis of every professions and vocations license subject to examination in this state to determine the licenses with a need for the examination to be offered in languages other than English. The bill would also require the office to report this analysis with recommendations to the Legislature by January 1, 2019.~~

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 12.5 of the Business and Professions Code is amended to read:

12.5. *(a)* Whenever ~~in~~ any provision of this code ~~authority is granted~~ *grants authority* to issue a citation for a violation of any provision of this code, that authority also includes the authority to issue a citation for the violation of any regulation adopted pursuant to any provision of this code.

(b) The authority to issue a citation for a violation of any provision of this code also includes the authority to issue a fix-it ticket, in lieu of a fine. Any person who is issued a fix-it ticket in lieu of a citation and fine shall have 30 days in which to correct the violation before being issued the fine.

~~SECTION 1. Section 139.2 is added to the Business and Professions Code, to read:~~

~~139.2. (a) The Office of Professional Examination Services shall conduct an occupational analysis of every license subject to examination in this state to determine the licenses with a need for the examination to be offered in languages other than English.~~

~~(b) (1) Pursuant to Section 9795 of the Government Code, the office shall report this analysis with recommendations to the Legislature by January 1, 2019.~~

~~(2) This subdivision shall become inoperative on January 1, 2022, pursuant to Section 10231.5 of the Government Code.~~

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BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
May 10, 2017

BILL ANALYSIS

AUTHOR:	Berryhill	**BILL NUMBER:**	SB 181
SPONSOR:	Berryhill	**BILL STATUS:**	Senate Committee on Government Organization
SUBJECT:	Administrative Procedure Act: repeal of regulations	**DATE LAST AMENDED:**	April 5, 2017

SUMMARY:
This bill requires each state agency proposing to adopt a new regulation to identify two existing regulations previously adopted by that state agency that will be repealed upon the adoption of the new regulation being proposed.

ANALYSIS:
Existing law:
- The Administrative Procedure Act, governs, among other things, the procedures for the adoption, amendment, or repeal of regulations by state agencies and for the review of those regulatory actions by the Office of Administrative Law.
- Existing law requires a state agency proposing to adopt, amend, or repeal specific administrative regulations to assess the potential for adverse economic impact on California business enterprises and individuals and to prepare an economic impact assessment, as specified, that addresses, among other things, the creation or elimination of jobs within the state.

This bill would:
- Require each state agency proposing to adopt a new administrative regulation to identify two existing regulations previously adopted by that state agency that will be repealed upon the adoption of the new regulation being proposed.
- Require the agency to additionally provide a proposal for the repeal of those regulations identified to be repealed.
- Require any proposed new regulation to be contingent on the repeal of the two identified regulations.

Comments:
According to the bill author, SB 181 is intended to streamline the regulatory code book and mold the executive branch into a modern and efficient version of itself, while reducing compliance costs for businesses and individuals.

This bill failed passage in Committee on 4/25/2017 with reconsideration granted.

BOARD POSITION: Not previously considered

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Not previously considered

SUPPORT: None identified

OPPOSE: None identified

AMENDED IN SENATE APRIL 5, 2017

SENATE BILL No. 181

Introduced by Senator Berryhill
(Coauthor: Senator Wilk)
(Coauthor: Assembly Member Bigelow)

January 24, 2017

An act to amend ~~Section 8588 of~~ *Sections 11346.2, 11346.5, 11347.3, and 11349.1 of, and to add Section 11346.35 to* the Government Code, relating to ~~emergency services.~~ *administrative regulations.*

LEGISLATIVE COUNSEL'S DIGEST

SB 181, as amended, Berryhill. ~~Emergency services.~~ *Administrative Procedure Act: repeal of regulations.*

Existing law, the Administrative Procedure Act, governs, among other things, the procedures for the adoption, amendment, or repeal of regulations by state agencies and for the review of those regulatory actions by the Office of Administrative Law. Existing law requires a state agency proposing to adopt, amend, or repeal specific administrative regulations to assess the potential for adverse economic impact on California business enterprises and individuals and to prepare an economic impact assessment, as specified, that addresses, among other things, the creation or elimination of jobs within the state.

This bill would, notwithstanding other law, additionally require each state agency proposing to adopt a new administrative regulation to identify two existing regulations previously adopted by that state agency that will be repealed upon the adoption of the new regulation being proposed. The bill would require the agency to additionally provide a proposal for the repeal of those regulations identified to be repealed.

The bill would require any proposed new regulation to be contingent on the repeal of the two identified regulations.

~~Existing law authorizes the director of the Office of Emergency Services to proclaim the existence of a state of emergency in the name of the Governor when the Governor has been inaccessible, as specified. Existing law requires the Governor to either ratify that action or terminate the state of emergency as soon as the Governor becomes accessible.~~

~~This bill would make a nonsubstantive change to this provision.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ *yes*. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 11346.2 of the Government Code is amended to read:

11346.2. Every agency subject to this chapter shall prepare, submit to the office with the notice of the proposed action as described in Section 11346.5, and make available to the public upon request, all of the following:

(a) A copy of the express terms of the proposed regulation.

(1) The agency shall draft the regulation in plain, straightforward language, avoiding technical terms as much as possible, and using a coherent and easily readable style. The agency shall draft the regulation in plain English.

(2) The agency shall include a notation following the express terms of each California Code of Regulations section, listing the specific statutes or other provisions of law authorizing the adoption of the regulation and listing the specific statutes or other provisions of law being implemented, interpreted, or made specific by that section in the California Code of Regulations.

(3) The agency shall use underline or italics to indicate additions to, and strikeout to indicate deletions from, the California Code of Regulations.

(b) An initial statement of reasons for proposing the adoption, amendment, or repeal of a regulation. This statement of reasons shall include, but not be limited to, all of the following:

(1) A statement of the specific purpose of each adoption, amendment, or repeal, the problem the agency intends to address, and the rationale for the determination by the agency that each

adoption, amendment, or repeal is reasonably necessary to carry out the purpose and address the problem for which it is proposed. The statement shall enumerate the benefits anticipated from the regulatory action, including the benefits or goals provided in the authorizing statute. These benefits may include, to the extent applicable, nonmonetary benefits such as the protection of public health and safety, worker safety, or the environment, the prevention of discrimination, the promotion of fairness or social equity, and the increase in openness and transparency in business and government, among other things. Where the adoption or amendment of a regulation would mandate the use of specific technologies or equipment, a statement of the reasons why the agency believes these mandates or prescriptive standards are required.

(2) (A) For a regulation that is not a major regulation, the economic impact assessment required by subdivision (b) of Section 11346.3.

(B) For a major regulation proposed on or after November 1, 2013, the standardized regulatory impact analysis required by subdivision (c) of Section 11346.3.

(3) An identification of each technical, theoretical, and empirical study, report, or similar document, if any, upon which the agency relies in proposing the adoption, amendment, or repeal of a regulation.

(4) (A) A description of reasonable alternatives to the regulation and the agency's reasons for rejecting those alternatives. Reasonable alternatives to be considered include, but are not limited to, alternatives that are proposed as less burdensome and equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the authorizing statute or other law being implemented or made specific by the proposed regulation. In the case of a regulation that would mandate the use of specific technologies or equipment or prescribe specific actions or procedures, the imposition of performance standards shall be considered as an alternative.

(B) A description of reasonable alternatives to the regulation that would lessen any adverse impact on small business and the agency's reasons for rejecting those alternatives.

(C) Notwithstanding subparagraph (A) or (B), an agency is not required to artificially construct alternatives or describe unreasonable alternatives.

(5) (A) Facts, evidence, documents, testimony, or other evidence on which the agency relies to support an initial determination that the action will not have a significant adverse economic impact on business.

(B) (i) If a proposed regulation is a building standard, the initial statement of reasons shall include the estimated cost of compliance, the estimated potential benefits, and the related assumptions used to determine the estimates.

(ii) The model codes adopted pursuant to Section 18928 of the Health and Safety Code shall be exempt from the requirements of this subparagraph. However, if an interested party has made a request in writing to the agency, at least 30 days before the submittal of the initial statement of reasons, to examine a specific section for purposes of estimating the cost of compliance and the potential benefits for that section, and including the related assumptions used to determine the estimates, then the agency shall comply with the requirements of this subparagraph with regard to that requested section.

(6) A department, board, or commission within the Environmental Protection Agency, the Natural Resources Agency, or the Office of the State Fire Marshal shall describe its efforts, in connection with a proposed rulemaking action, to avoid unnecessary duplication or conflicts with federal regulations contained in the Code of Federal Regulations addressing the same issues. These agencies may adopt regulations different from federal regulations contained in the Code of Federal Regulations addressing the same issues upon a finding of one or more of the following justifications:

(A) The differing state regulations are authorized by law.

(B) The cost of differing state regulations is justified by the benefit to human health, public safety, public welfare, or the environment.

(7) For every new regulation that is proposed to be added, the identification of two existing regulations that shall be repealed upon the adoption of the proposed new regulation, as set forth in Section 11346.35.

(c) A state agency that adopts or amends a regulation mandated by federal law or regulations, the provisions of which are identical to a previously adopted or amended federal regulation, shall be deemed to have complied with subdivision (b) if a statement to the effect that a federally mandated regulation or amendment to a regulation is being proposed, together with a citation to where an explanation of the regulation can be found, is included in the notice of proposed adoption or amendment prepared pursuant to Section 11346.5. However, the agency shall comply fully with this chapter with respect to any provisions in the regulation that the agency proposes to adopt or amend that are different from the corresponding provisions of the federal regulation.

(d) This section shall be inoperative from January 1, 2012, until January 1, 2014.

SEC. 2. Section 11346.35 is added to the Government Code, to read:

11346.35. Notwithstanding any other law, a state agency proposing to adopt a new regulation shall identify two existing regulations previously adopted by the state agency that shall be repealed upon the adoption of the new regulation being proposed. The agency shall additionally provide a proposal, pursuant to this chapter, for the repeal of those regulations identified to be repealed pursuant to this section. The adoption of the proposed new regulation shall be contingent upon the repeal of the two existing regulations identified pursuant to this section.

SEC. 3. Section 11346.5 of the Government Code is amended to read:

11346.5. (a) The notice of proposed adoption, amendment, or repeal of a regulation shall include the following:

(1) A statement of the time, place, and nature of proceedings for adoption, amendment, or repeal of the regulation.

(2) Reference to the authority under which the regulation is proposed and a reference to the particular code sections or other provisions of law that are being implemented, interpreted, or made specific.

(3) An informative digest drafted in plain English in a format similar to the Legislative Counsel's digest on legislative bills. The informative digest shall include the following:

(A) A concise and clear summary of existing laws and regulations, if any, related directly to the proposed action and of the effect of the proposed action.

(B) If the proposed action differs substantially from an existing comparable federal regulation or statute, a brief description of the significant differences and the full citation of the federal regulations or statutes.

(C) A policy statement overview explaining the broad objectives of the regulation and the specific benefits anticipated by the proposed adoption, amendment, or repeal of a regulation, including, to the extent applicable, nonmonetary benefits such as the protection of public health and safety, worker safety, or the environment, the prevention of discrimination, the promotion of fairness or social equity, and the increase in openness and transparency in business and government, among other things.

(D) An evaluation of whether the proposed regulation is inconsistent or incompatible with existing state regulations.

(4) Any other matters as are prescribed by statute applicable to the specific state agency or to any specific regulation or class of regulations.

(5) A determination as to whether the regulation imposes a mandate on local agencies or school districts and, if so, whether the mandate requires state reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4.

(6) An estimate, prepared in accordance with instructions adopted by the Department of Finance, of the cost or savings to any state agency, the cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4, other nondiscretionary cost or savings imposed on local agencies, and the cost or savings in federal funding to the state.

For purposes of this paragraph, “cost or savings” means additional costs or savings, both direct and indirect, that a public agency necessarily incurs in reasonable compliance with regulations.

(7) If a state agency, in proposing to adopt, amend, or repeal any administrative regulation, makes an initial determination that the action may have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states,

it shall include the following information in the notice of proposed action:

(A) Identification of the types of businesses that would be affected.

(B) A description of the projected reporting, recordkeeping, and other compliance requirements that would result from the proposed action.

(C) The following statement: "The (name of agency) has made an initial determination that the (adoption/amendment/repeal) of this regulation may have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The (name of agency) (has/has not) considered proposed alternatives that would lessen any adverse economic impact on business and invites you to submit proposals. Submissions may include the following considerations:

(i) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to businesses.

(ii) Consolidation or simplification of compliance and reporting requirements for businesses.

(iii) The use of performance standards rather than prescriptive standards.

(iv) Exemption or partial exemption from the regulatory requirements for businesses."

(8) If a state agency, in adopting, amending, or repealing any administrative regulation, makes an initial determination that the action will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states, it shall make a declaration to that effect in the notice of proposed action. In making this declaration, the agency shall provide in the record facts, evidence, documents, testimony, or other evidence upon which the agency relies to support its initial determination.

An agency's initial determination and declaration that a proposed adoption, amendment, or repeal of a regulation may have or will not have a significant, adverse impact on businesses, including the ability of California businesses to compete with businesses in other states, shall not be grounds for the office to refuse to publish the notice of proposed action.

(9) A description of all cost impacts, known to the agency at the time the notice of proposed action is submitted to the office, that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

If no cost impacts are known to the agency, it shall state the following:

"The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action."

(10) A statement of the results of the economic impact assessment required by subdivision (b) of Section 11346.3 or the standardized regulatory impact analysis if required by subdivision (c) of Section 11346.3, a summary of any comments submitted to the agency pursuant to subdivision (f) of Section 11346.3 and the agency's response to those comments.

(11) The finding prescribed by subdivision (d) of Section 11346.3, if required.

(12) (A) A statement that the action would have a significant effect on housing costs, if a state agency, in adopting, amending, or repealing any administrative regulation, makes an initial determination that the action would have that effect.

(B) The agency officer designated in paragraph (14) shall make available to the public, upon request, the agency's evaluation, if any, of the effect of the proposed regulatory action on housing costs.

(C) The statement described in subparagraph (A) shall also include the estimated costs of compliance and potential benefits of a building standard, if any, that were included in the initial statement of reasons.

(D) For purposes of model codes adopted pursuant to Section 18928 of the Health and Safety Code, the agency shall comply with the requirements of this paragraph only if an interested party has made a request to the agency to examine a specific section for purposes of estimating the costs of compliance and potential benefits for that section, as described in Section 11346.2.

(13) A statement that the adopting agency must determine that no reasonable alternative considered by the agency or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to

affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. For a major regulation, as defined by Section 11342.548, proposed on or after November 1, 2013, the statement shall be based, in part, upon the standardized regulatory impact analysis of the proposed regulation, as required by Section 11346.3, as well as upon the benefits of the proposed regulation identified pursuant to subparagraph (C) of paragraph (3).

(14) The name and telephone number of the agency representative and designated backup contact person to whom inquiries concerning the proposed administrative action may be directed.

(15) The date by which comments submitted in writing must be received to present statements, arguments, or contentions in writing relating to the proposed action in order for them to be considered by the state agency before it adopts, amends, or repeals a regulation.

(16) Reference to the fact that the agency proposing the action has prepared a statement of the reasons for the proposed action, has available all the information upon which its proposal is based, and has available the express terms of the proposed action, pursuant to subdivision (b).

(17) A statement that if a public hearing is not scheduled, any interested person or his or her duly authorized representative may request, no later than 15 days prior to the close of the written comment period, a public hearing pursuant to Section 11346.8.

(18) A statement indicating that the full text of a regulation changed pursuant to Section 11346.8 will be available for at least 15 days prior to the date on which the agency adopts, amends, or repeals the resulting regulation.

(19) A statement explaining how to obtain a copy of the final statement of reasons once it has been prepared pursuant to subdivision (a) of Section 11346.9.

(20) If the agency maintains an Internet Web site or other similar forum for the electronic publication or distribution of written material, a statement explaining how materials published or distributed through that forum can be accessed.

(21) If the proposed regulation is subject to Section 11346.6, a statement that the agency shall provide, upon request, a description

of the proposed changes included in the proposed action, in the manner provided by Section 11346.6, to accommodate a person with a visual or other disability for which effective communication is required under state or federal law and that providing the description of proposed changes may require extending the period of public comment for the proposed action.

(22) Pursuant to Section 11346.35, the identification of two existing regulations that shall be repealed upon the adoption of the proposed new regulation.

(b) The agency representative designated in paragraph (14) of subdivision (a) shall make available to the public upon request the express terms of the proposed action. The representative shall also make available to the public upon request the location of public records, including reports, documentation, and other materials, related to the proposed action. If the representative receives an inquiry regarding the proposed action that the representative cannot answer, the representative shall refer the inquiry to another person in the agency for a prompt response.

(c) This section shall not be construed in any manner that results in the invalidation of a regulation because of the alleged inadequacy of the notice content or the summary or cost estimates, or the alleged inadequacy or inaccuracy of the housing cost estimates, if there has been substantial compliance with those requirements.

SEC. 4. Section 11347.3 of the Government Code is amended to read:

11347.3. (a) Every agency shall maintain a file of each rulemaking that shall be deemed to be the record for that rulemaking proceeding. Commencing no later than the date that the notice of the proposed action is published in the California Regulatory Notice Register, and during all subsequent periods of time that the file is in the agency's possession, the agency shall make the file available to the public for inspection and copying during regular business hours.

(b) The rulemaking file shall include:

(1) Copies of any petitions received from interested persons proposing the adoption, amendment, or repeal of the regulation, and a copy of any decision provided for by subdivision (d) of Section 11340.7, which grants a petition in whole or in part.

(2) All published notices of proposed adoption, amendment, or repeal of the regulation, and an updated informative digest, the initial statement of reasons, and the final statement of reasons.

(3) The determination, together with the supporting data required by paragraph (5) of subdivision (a) of Section 11346.5.

(4) The determination, together with the supporting data required by paragraph (8) of subdivision (a) of Section 11346.5.

(5) The estimate, together with the supporting data and calculations, required by paragraph (6) of subdivision (a) of Section 11346.5.

(6) All data and other factual information, any studies or reports, and written comments submitted to the agency in connection with the adoption, amendment, or repeal of the regulation.

(7) All data and other factual information, technical, theoretical, and empirical studies or reports, if any, on which the agency is relying in the adoption, amendment, or repeal of a regulation, including any economic impact assessment or standardized regulatory impact analysis as required by Section 11346.3.

(8) A transcript, recording, or minutes of any public hearing connected with the adoption, amendment, or repeal of the regulation.

(9) The date on which the agency made the full text of the proposed regulation available to the public for 15 days prior to the adoption, amendment, or repeal of the regulation, if required to do so by subdivision (c) of Section 11346.8.

(10) The text of regulations as originally proposed and the modified text of regulations, if any, that were made available to the public prior to adoption.

(11) Any other information, statement, report, or data that the agency is required by law to consider or prepare in connection with the adoption, amendment, or repeal of a regulation.

(12) An index or table of contents that identifies each item contained in the rulemaking file. The index or table of contents shall include an affidavit or a declaration under penalty of perjury in the form specified by Section 2015.5 of the Code of Civil Procedure by the agency official who has compiled the rulemaking file, specifying the date upon which the record was closed, and that the file or the copy, if submitted, is complete.

(13) Pursuant to Section 11346.35, the identification of two existing regulations that shall be repealed upon the adoption of the proposed new regulation.

(c) Every agency shall submit to the office with the adopted regulation, the rulemaking file or a complete copy of the rulemaking file.

(d) The rulemaking file shall be made available by the agency to the public, and to the courts in connection with the review of the regulation.

(e) Upon filing a regulation with the Secretary of State pursuant to Section 11349.3, the office shall return the related rulemaking file to the agency, after which no item contained in the file shall be removed, altered, or destroyed or otherwise disposed of. The agency shall maintain the file unless it elects to transmit the file to the State Archives pursuant to subdivision (f).

(f) The agency may transmit the rulemaking file to the State Archives. The file shall include instructions that the Secretary of State shall not remove, alter, or destroy or otherwise dispose of any item contained in the file. Pursuant to Section 12223.5, the Secretary of State may designate a time for the delivery of the rulemaking file to the State Archives in consideration of document processing or storage limitations.

SEC. 5. Section 11349.1 of the Government Code is amended to read:

11349.1. (a) The office shall review all regulations adopted, amended, or repealed pursuant to the procedure specified in Article 5 (commencing with Section 11346) and submitted to it for publication in the California Code of Regulations Supplement and for transmittal to the Secretary of State and make determinations using all of the following standards:

(1) Necessity.

(2) Authority.

(3) Clarity.

(4) Consistency.

(5) Reference.

(6) Nonduplication.

In reviewing regulations pursuant to this section, the office shall restrict its review to the regulation and the record of the rulemaking proceeding. The office shall approve the regulation or order of

repeal if it complies with the standards set forth in this section and with this chapter.

(b) In reviewing proposed regulations for the criteria in subdivision (a), the office may consider the clarity of the proposed regulation in the context of related regulations already in existence.

(c) The office shall adopt regulations governing the procedures it uses in reviewing regulations submitted to it. The regulations shall provide for an orderly review and shall specify the methods, standards, presumptions, and principles the office uses, and the limitations it observes, in reviewing regulations to establish compliance with the standards specified in subdivision (a). The regulations adopted by the office shall ensure that it does not substitute its judgment for that of the rulemaking agency as expressed in the substantive content of adopted regulations.

(d) The office shall return any regulation subject to this chapter to the adopting agency if any of the following occur:

(1) The adopting agency has not prepared the estimate required by paragraph (6) of subdivision (a) of Section 11346.5 and has not included the data used and calculations made and the summary report of the estimate in the file of the rulemaking.

(2) The agency has not complied with Section 11346.3. "Noncompliance" means that the agency failed to complete the economic impact assessment or standardized regulatory impact analysis required by Section 11346.3 or failed to include the assessment or analysis in the file of the rulemaking proceeding as required by Section 11347.3.

(3) The adopting agency has prepared the estimate required by paragraph (6) of subdivision (a) of Section 11346.5, the estimate indicates that the regulation will result in a cost to local agencies or school districts that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4, and the adopting agency fails to do any of the following:

(A) Cite an item in the Budget Act for the fiscal year in which the regulation will go into effect as the source from which the Controller may pay the claims of local agencies or school districts.

(B) Cite an accompanying bill appropriating funds as the source from which the Controller may pay the claims of local agencies or school districts.

(C) Attach a letter or other documentation from the Department of Finance which states that the Department of Finance has

approved a request by the agency that funds be included in the Budget Bill for the next following fiscal year to reimburse local agencies or school districts for the costs mandated by the regulation.

(D) Attach a letter or other documentation from the Department of Finance which states that the Department of Finance has authorized the augmentation of the amount available for expenditure under the agency's appropriation in the Budget Act which is for reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4 to local agencies or school districts from the unencumbered balances of other appropriations in the Budget Act and that this augmentation is sufficient to reimburse local agencies or school districts for their costs mandated by the regulation.

(4) The proposed regulation conflicts with an existing state regulation and the agency has not identified the manner in which the conflict may be resolved.

(5) The agency did not make the alternatives determination as required by paragraph (4) of subdivision (a) of Section 11346.9.

(6) For the adoption of a new regulation, the agency did not identify two existing regulations to be repealed pursuant to Section 11346.35.

(e) The office shall notify the Department of Finance of all regulations returned pursuant to subdivision (d).

(f) The office shall return a rulemaking file to the submitting agency if the file does not comply with subdivisions (a) and (b) of Section 11347.3. Within three state working days of the receipt of a rulemaking file, the office shall notify the submitting agency of any deficiency identified. If no notice of deficiency is mailed to the adopting agency within that time, a rulemaking file shall be deemed submitted as of the date of its original receipt by the office. A rulemaking file shall not be deemed submitted until each deficiency identified under this subdivision has been corrected.

(g) Notwithstanding any other law, return of the regulation to the adopting agency by the office pursuant to this section is the exclusive remedy for a failure to comply with subdivision (c) of Section 11346.3 or paragraph (10) of subdivision (a) of Section 11346.5.

~~SECTION 1. Section 8588 of the Government Code is amended to read:~~

~~8588. If conditions exist within any region or regions of the state that warrant the proclamation by the Governor of a state of emergency and the Governor has not acted under the provisions of Section 8625, because the Governor has been inaccessible, the director may proclaim the existence of a state of emergency in the name of the Governor as to any region or regions of the state. If the director has proclaimed a state of emergency pursuant to this section, that action shall be ratified by the Governor as soon as the Governor becomes accessible, and if the Governor does not ratify the action, the Governor shall immediately terminate the state of emergency as proclaimed by the director.~~

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BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
May 10, 2017

BILL ANALYSIS

AUTHOR:	Lara	**BILL NUMBER:**	SB 641
SPONSOR:	California Medical Association	**BILL STATUS:**	Senate Committee on Business, Professions, & Economic Development
SUBJECT:	Controlled Substance Utilization Review and Evaluation System: privacy	**DATE LAST AMENDED:**	April 20, 2017

SUMMARY:

Existing law requires the Department of Justice to maintain the Controlled Substance Utilization Review and Evaluation System (CURES) for the electronic monitoring of the prescribing and dispensing of Schedule II, Schedule III, and Schedule IV controlled substances by all practitioners authorized to prescribe or dispense these controlled substances. Existing law requires the operation of CURES to comply with all applicable federal and state privacy and security laws and regulations. Under existing law, data obtained from CURES may only be provided to appropriate state, local, and federal public agencies for disciplinary, civil, or criminal purposes and to other agencies or entities, as determined by the department, for the purpose of educating practitioners and others in lieu of disciplinary, civil, or criminal actions. Existing law allows data obtained from CURES to be provided to public or private entities for statistical or research purposes, as approved by the department.

Existing law authorizes the department to invite stakeholders to assist, advise, and make recommendations on the establishment of rules and regulations necessary to ensure the proper administration and enforcement of the CURES database.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

ANALYSIS:

Legislator's Summary: SB 641 would update and clarify the privacy of patient prescription information housed in CURES. It would also require patients be notified that their information is being submitted to the database. Finally, it would require the Department of Justice (DOJ), which

administers CURES, to establish an advisory committee of licensed health care providers to advise the Department on administration of the database.

This bill would revise and recast the CURES privacy provisions. The bill would specify that, except as specified, information within CURES is confidential, not subject to discovery or admissible in any civil or administrative action, and exempt from public inspection, copying, and disclosure pursuant to the California Public Records Act. The bill would specify to whom the information within CURES may be disclosed or released, including, among others, to a health care practitioner providing care to a current patient, to a pharmacist dispensing a controlled substance to a current patient, and, upon a written request, to certain regulatory boards. The bill would require a pharmacy to provide a specific notification about CURES to each patient who is dispensed a Schedule II, Schedule III, or Schedule IV controlled substance.

The bill would require the department to appoint a multidisciplinary advisory committee, as specified, to assist, advise, and make recommendations for the establishment of rules and regulations relating to the proper administration and enforcement of the CURES database.

This bill would make legislative findings demonstrating the interest protected by the limitation and the need for protecting that interest.

As amended 4/20/2017:
This bill would:
Require the Department of Justice to only provide CURES data to a law enforcement agency pursuant to a warrant based on probable cause for an open and active investigation related to drug abuse or diversion of controlled substances.

Comments:
The revisions delete bill provisions that would have affected the Board's access to CURES information for regulatory purposes. As such, AB 641 no longer impacts the Board's ability to investigate administrative cases. However, it may affect any criminal case referral that results from an administrative investigation.

BOARD POSITION: Watch (4/5/2017)

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Not previously considered

SUPPORT:

California Medical Association (Sponsor)
American College of Physicians – California Services Chapter
California Dental Association

OPPOSE:

Consumer Attorneys of California
Shatter Proof
California Narcotic Officers Association
California Teamsters Public Affairs Council

Consumer Watchdog
Consumer Federation of California

AMENDED IN SENATE APRIL 20, 2017

AMENDED IN SENATE MARCH 28, 2017

SENATE BILL No. 641

Introduced by Senator Lara

February 17, 2017

An act to amend Section 11165 of the Health and Safety Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

SB 641, as amended, Lara. Controlled Substance Utilization Review and Evaluation System: privacy.

Existing law requires the Department of Justice to maintain the Controlled Substance Utilization Review and Evaluation System (CURES) for the electronic monitoring of the prescribing and dispensing of Schedule II, Schedule III, and Schedule IV controlled substances by all practitioners authorized to prescribe or dispense these controlled substances. Existing law requires the operation of CURES to comply with all applicable federal and state privacy and security laws and regulations. Under existing law, data obtained from CURES may only be provided to appropriate state, local, and federal public agencies for disciplinary, civil, or criminal purposes and to other agencies or entities, as determined by the department, for the purpose of educating practitioners and others in lieu of disciplinary, civil, or criminal actions. Existing law allows data obtained from CURES to be provided to public or private entities for statistical or research purposes, as approved by the department.

This bill would prohibit the release of data obtained from CURES to a law enforcement agency except pursuant to a ~~valid court order,~~ *warrant based on probable cause,* as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 11165 of the Health and Safety Code is amended to read:

11165. (a) To assist health care practitioners in their efforts to ensure appropriate prescribing, ordering, administering, furnishing, and dispensing of controlled substances, law enforcement and regulatory agencies in their efforts to control the diversion and resultant abuse of Schedule II, Schedule III, and Schedule IV controlled substances, and for statistical analysis, education, and research, the Department of Justice shall, contingent upon the availability of adequate funds in the CURES Fund, maintain the Controlled Substance Utilization Review and Evaluation System (CURES) for the electronic monitoring of, and Internet access to information regarding, the prescribing and dispensing of Schedule II, Schedule III, and Schedule IV controlled substances by all practitioners authorized to prescribe, order, administer, furnish, or dispense these controlled substances.

(b) The Department of Justice may seek and use grant funds to pay the costs incurred by the operation and maintenance of CURES. The department shall annually report to the Legislature and make available to the public the amount and source of funds it receives for support of CURES.

(c) (1) The operation of CURES shall comply with all applicable federal and state privacy and security laws and regulations.

(2) (A) CURES shall operate under existing provisions of law to safeguard the privacy and confidentiality of patients. Data obtained from CURES shall only be provided to appropriate state, local, and federal public agencies for disciplinary, civil, or criminal purposes and to other agencies or entities, as determined by the Department of Justice, for the purpose of educating practitioners and others in lieu of disciplinary, civil, or criminal actions. Data may be provided to public or private entities, as approved by the Department of Justice, for educational, peer review, statistical, or research purposes, provided that patient information, including any information that may identify the patient, is not compromised.

Further, data disclosed to any individual or agency as described in this subdivision shall not be disclosed, sold, or transferred to any third party, unless authorized by, or pursuant to, state and federal privacy and security laws and regulations.

(B) The Department of Justice shall only provide data obtained from CURES to a federal, state, or local law enforcement agency pursuant to a ~~valid court order or~~ warrant based on probable cause and issued at the request of a federal, state, or local law enforcement agency engaged in an open and active *criminal* investigation regarding prescription drug abuse or diversion of prescription of controlled substances involving the individual to whom the requested information pertains.

(C) The Department of Justice shall establish policies, procedures, and regulations regarding the use, access, evaluation, management, implementation, operation, storage, disclosure, and security of the information within CURES, consistent with Section 11165.1.

(D) Notwithstanding subparagraph (A), a regulatory board whose licensees do not prescribe, order, administer, furnish, or dispense controlled substances shall not be provided data obtained from CURES.

(3) In accordance with federal and state privacy laws and regulations, a health care practitioner may provide a patient with a copy of the patient's CURES patient activity report as long as no additional CURES data is provided and keep a copy of the report in the patient's medical record in compliance with subdivision (d) of Section 11165.1.

(d) For each prescription for a Schedule II, Schedule III, or Schedule IV controlled substance, as defined in the controlled substances schedules in federal law and regulations, specifically Sections 1308.12, 1308.13, and 1308.14, respectively, of Title 21 of the Code of Federal Regulations, the dispensing pharmacy, clinic, or other dispenser shall report the following information to the Department of Justice as soon as reasonably possible, but not more than seven days after the date a controlled substance is dispensed, in a format specified by the Department of Justice:

(1) Full name, address, and, if available, telephone number of the ultimate user or research subject, or contact information as determined by the Secretary of the United States Department of

Health and Human Services, and the gender, and date of birth of the ultimate user.

(2) The prescriber's category of licensure, license number, national provider identifier (NPI) number, if applicable, the federal controlled substance registration number, and the state medical license number of any prescriber using the federal controlled substance registration number of a government-exempt facility.

(3) Pharmacy prescription number, license number, NPI number, and federal controlled substance registration number.

(4) National Drug Code (NDC) number of the controlled substance dispensed.

(5) Quantity of the controlled substance dispensed.

(6) International Statistical Classification of Diseases, 10th revision (ICD-10) Code, if available.

(7) Number of refills ordered.

(8) Whether the drug was dispensed as a refill of a prescription or as a first-time request.

(9) Date of origin of the prescription.

(10) Date of dispensing of the prescription.

(e) The Department of Justice may invite stakeholders to assist, advise, and make recommendations on the establishment of rules and regulations necessary to ensure the proper administration and enforcement of the CURES database. All prescriber and dispenser invitees shall be licensed by one of the boards or committees identified in subdivision (d) of Section 208 of the Business and Professions Code, in active practice in California, and a regular user of CURES.

(f) The Department of Justice shall, prior to upgrading CURES, consult with prescribers licensed by one of the boards or committees identified in subdivision (d) of Section 208 of the Business and Professions Code, one or more of the boards or committees identified in subdivision (d) of Section 208 of the Business and Professions Code, and any other stakeholder identified by the department, for the purpose of identifying desirable capabilities and upgrades to the CURES Prescription Drug Monitoring Program (PDMP).

(g) The Department of Justice may establish a process to educate authorized subscribers of the CURES PDMP on how to access and use the CURES PDMP.

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BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
May 10, 2017

BILL ANALYSIS

AUTHOR:	Hernandez	**BILL NUMBER:**	AB 762
SPONSOR:	Wood	**BILL STATUS:**	Assembly
SUBJECT:	Healing arts licensee: license activation fee: waiver	**DATE LAST AMENDED:**	4/17/2017

SUMMARY:

- This bill requires renewal fee to be waived for any healing arts licensee who certifies renewal is for the sole purpose of voluntary, unpaid service to a public agency, not-for-profit agency, institution, or corporation that provides medical services to indigent patients in medically underserved of critical-need population areas.

ANALYSIS:

Existing law:

- Requires a healing arts board, as defined, to issue, upon application and payment of the normal renewal fee, an inactive license or certificate to a current holder of an active license or certificate whose license or certificate is not suspended, revoked, or otherwise punitively restricted by the board.
- Requires the holder of an inactive license or certificate to, among other things, pay the renewal fee in order to restore his or her license or certificate to an active status.
- Requires the renewal fee to be waived for a physician and surgeon who certifies to the Medical Board of California that license restoration is for the sole purpose of providing voluntary, unpaid service to a public agency, not-for-profit agency, institution, or corporation that provides medical services to indigent patients in medically underserved or critical-need population areas of the state.

This bill would:

- This bill would require the renewal fee to be waived for any healing arts licensee who certifies to his or her respective board that license restoration is for the sole purpose of providing voluntary, unpaid service to a public agency, not-for-profit agency, institution, or corporation that provides medical services to indigent patients in medically underserved or critical-need population areas of the state.

Fiscal impact:

- Negative fiscal impact $25,000, annually.

Comments:

- According to the bill author, given the shortage of primary care physicians in certain regions and the continued advancements in training of other health care professionals, SB 762 will help ease the strain on the system by providing the opportunity for all health care professionals to deliver volunteer services under their licenses. Staff does not anticipate

BOARD POSITION: Not previously considered

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Not previously considered

SUPPORT: None identified

OPPOSE: Note identified

AMENDED IN SENATE APRIL 17, 2017

SENATE BILL No. 762

Introduced by Senator Hernandez

February 17, 2017

An act *to amend Section 704 of the Business and Professions Code,* relating to ~~workforce development.~~ *healing arts.*

LEGISLATIVE COUNSEL'S DIGEST

SB 762, as amended, Hernandez. ~~Health care workforce development.~~ *Healing arts licensee: license activation fee: waiver.*

Existing law requires a healing arts board, as defined, to issue, upon application and payment of the normal renewal fee, an inactive license or certificate to a current holder of an active license or certificate whose license or certificate is not suspended, revoked, or otherwise punitively restricted by the board. Existing law requires the holder of an inactive license or certificate to, among other things, pay the renewal fee in order to restore his or her license or certificate to an active status. Existing law requires the renewal fee to be waived for a physician and surgeon who certifies to the Medical Board of California that license restoration is for the sole purpose of providing voluntary, unpaid service to a public agency, not-for-profit agency, institution, or corporation that provides medical services to indigent patients in medically underserved or critical-need population areas of the state.

This bill would require the renewal fee to be waived for any healing arts licensee who certifies to his or her respective board that license restoration is for the sole purpose of providing voluntary, unpaid service to a public agency, not-for-profit agency, institution, or corporation that provides medical services to indigent patients in medically underserved or critical-need population areas of the state.

~~The federal Workforce Innovation and Opportunity Act of 2014 provides for workforce investment activities, including activities in which states may participate. Existing law contains various programs for job training and employment investment, including work incentive programs, as specified, and establishes local workforce investment boards to perform duties related to the implementation and coordination of local workforce investment activities. Existing law requires local workforce investment boards to spend a minimum percentage of specified funds for adults and dislocated workers on federally identified workforce training programs and allows the boards to leverage specified funds to meet the funding requirements, as specified.~~

~~This bill would state the intent of the Legislature to enact legislation relating to health care workforce development.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ *yes*. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 704 of the Business and Professions Code is amended to read:

704. In order for the holder of an inactive license or certificate issued pursuant to this article to restore his or her license or certificate to an active status, the holder of an inactive license or certificate shall comply with ~~all~~ *both* the following:

(a) Pay the renewal fee; provided, that the renewal fee shall be waived for a ~~physician and surgeon~~ *healing arts licensee* who certifies to the ~~Medical Board of California~~ *board* that license restoration is for the sole purpose of providing voluntary, unpaid service to a public agency, not-for-profit agency, institution, or corporation ~~which~~ *that* provides medical services to indigent patients in medically underserved or critical-need population areas of the state.

(b) If the board requires completion of continuing education for renewers of an active license or certificate, complete continuing education equivalent to that required for a single license renewal period.

~~SECTION 1. It is the intent of the Legislature to enact legislation relating to health care workforce development.~~

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BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
May 10, 2017

BILL ANALYSIS

AUTHOR:	Hill	**BILL NUMBER:**	SB 799
SPONSOR:	Hill	**BILL STATUS:**	Senate Committee on Appropriations
SUBJECT:	Nursing	**DATE LAST AMENDED:**	May 1, 2017

SUMMARY:
This bill extends the Board's sunset date to 2022. This bill also provides for mandatory reporting of registered nurses, concurrent investigation of registered nurses referred to the Intervention Program, increase in threshold for reporting liability insurance settlements, and changes to continuing education.

ANALYSIS:
Existing law:

- The Nursing Practice Act (NPA) establishes the Board of Registered Nursing (BRN) within the Department of Consumer Affairs (DCA) to license and regulate the practice of registered nurses until January 1, 2018.
- Authorizes the BRN to take disciplinary action against a licensee or deny an application for licensure for various acts and offenses
- Provides for an Intervention Program to rehabilitate registered nurses (RN) from abuse of alcohol, drugs, or mental illness.
- Requires BRN to close an investigation of an RN who voluntarily enters the Intervention Program if the reason for the current investigation is based primarily on the self-administration of any drug or alcohol and does not involve actual, direct harm to the public. The board shall reopen the investigation only if the RN withdraws or is terminated from the Intervention Program.
- Requires a person renewing his or her license to submit proof that, during the preceding 2-year period, he or she has been informed of the developments in the RN field or in any special area of practice engaged in by the licensee, occurring since the last renewal thereof, either by pursuing a course or courses of continuing education in the registered nurse field or relevant to the practice of the licensee, and approved by the board, or by other means deemed equivalent by the board.
- Requires the board to adopt regulations establishing standards for continuing education for licensees, as specified.

- Requires insurers that provide liability insurance to certain licensees, including persons licensed by the board, to report to the licensing agency certain settlement or arbitration awards over $3,000.

This bill would:
- Extend Board of Registered Nursing's sunset date until January 1, 2022.

Amended analysis as of 5/1/2017:

This bill would:
- Extend Board of Registered Nursing's sunset date until January 1, 2022.
- Require reporting of registered nurses to the board:
  - An RN who has knowledge that another person has committed any act listed as grounds for discipline or a denial of application shall make a written report to the board and cooperate with the board in furnishing information or assistance.
  - An RN employer shall report to the board any registered nurse who, as defined, is suspended, terminated, or resigned for cause
  - An RN employer shall report to the board any registered nurse who, as defined, is rejected from assignment by a health facility or home health care provider for certain acts that would be cause for suspension or termination.
  - Authorize the BRN, to issue an administrative fine up to $10,000 per violation for any registered nurse or employer who fails to make a report as required by the bill.
- Require the BRN to investigate all complaints against registered nurses concurrently participating in the intervention program.
- Revise continuing education provisions:
  - Require that each person renewing his or her license to submit proof of completing at least 30 hours of continuing education in the registered nurse nursing field or relevant to the practice of the licensee.
  - Prohibit the board from renewing existing continuing education providers or approving individual continuing education providers or courses.
  - Permit continuing education courses from providers approved by the board before January 1, 2018, or approved by accrediting agencies or associations as deemed appropriate by the board, which shall include, but not be limited to American Association of Nurse Practitioners, American Association of Critical-Care Nurses, and the American Association of Nurse Anesthetists.
  - Require the board to promulgate emergency regulations to establish a list of approved entities based on the entities' history of sanctioning learning opportunities appropriate to the practice of registered nursing.
  - Require the board to submit to the legislature by January 1, 2019, a report detailing a comprehensive plan for approving and disapproving continuing education opportunities.
- Increase the threshold from $3,000 to $10,000 for reporting certain settlement or arbitration awards.

Fiscal impact:
- Unknown

Comments:

- This bill implements legislative changes as a result of the Joint Sunset Review Oversight Hearings.

BOARD POSITION: Support (4/5/2017)

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Support (3/8/2017)

SUPPORT:
American Nurses Association/California
California Nurse-Midwives Association
California Association of Colleges of Nursing
California Association of Nurse Anesthetists

OPPOSE:
California Nurses Association
United Nurses Associations of California/Union of Healthcare Professionals
Service Employees International Union California

AMENDED IN SENATE MAY 1, 2017

AMENDED IN SENATE APRIL 20, 2017

AMENDED IN SENATE APRIL 17, 2017

SENATE BILL No. 799

Introduced by Senator Hill

February 17, 2017

An act to amend Sections 801, 2701, 2708, 2770.7, and 2811.5 of, to add Section 2761.5 to, and to repeal Section 2718 of, the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 799, as amended, Hill. Nursing.

Existing law, the Nursing Practice Act, establishes the Board of Registered Nursing within the Department of Consumer Affairs and sets forth its powers and duties regarding the licensure and regulation of registered nurses. Existing law requires the board to appoint an executive officer to perform duties delegated by the board.

The act on January 1, 2018, repeals the provisions establishing the board and the executive officer position.

This bill would extend the repeal date of those provisions to January 1, 2022.

The act requires the board, by February 1, 2016, to contract with the California State Auditor's Office to conduct a performance audit of the board's enforcement program, as specified.

This bill would repeal the performance audit provisions.

The act authorizes the board to take disciplinary action against certified or licensed nurses or to deny an application for a certificate or license for various acts and offenses.

This bill would require a registered nurse who has knowledge that another person has committed any act listed as grounds for discipline or a denial of application to make a written report to the board and cooperate with the board in furnishing information or assistance, as required. The bill would require an employer, as defined, of a registered nurse to report to the board the suspension or termination for cause, or resignation for cause, of any registered nurse in its employ. The bill would require an employer to report to the board the rejection from assignment of a registered nurse by a health facility or home health care provider due to certain acts that would be cause for suspension or termination. The bill would make the failure of a registered nurse or an employer to make a report as required by the bill punishable by an administrative fine up to $10,000 per violation.

The act provides for an intervention program to identify and rehabilitate registered nurses whose competency may be impaired due to abuse of alcohol and other drugs, or due to mental illness. The act authorizes a registered nurse under current investigation by the board to request entry into the intervention program by contacting the board. The act authorizes the board to close an investigation of a registered nurse who enters the program under specified circumstances and requires the board to reopen the investigation only if the registered nurse withdraws or is terminated from the program.

This bill would delete those provisions providing for the suspension of a current investigation while a registered nurse is in the program and, instead, would require the board to investigate all complaints against registered nurses participating in the intervention program.

The act requires a person renewing his or her license to submit proof satisfactory to the board that, during the preceding 2-year period, he or she has been informed of the developments in the registered nurse field or in any special area of practice engaged in by the licensee, occurring since the last renewal thereof, either by pursuing a course or courses of continuing education in the registered nurse field or relevant to the practice of the licensee, and approved by the board, or by other means deemed equivalent by the board. The act requires the board to adopt regulations establishing standards for continuing education for licensees, as specified, and prohibits the standards from exceeding 30 hours of continuing education.

This bill would revise those continuing education provisions to require that each person renewing his or her license submit proof satisfactory to the board that he or she has completed at least 30 hours of continuing

education by pursuing a course or courses in the registered nursing field or relevant to the practice of the licensee. *The bill would prohibit the board from renewing existing continuing education providers or approving individual continuing education providers or courses.* The bill would permit continuing education courses from providers approved by the board before January 1, 2018, or approved by accrediting agencies or associations deemed appropriate by the ~~board.~~ *board, to include specified entities.* The bill would require the board to promulgate emergency regulations to establish a list of approved entities based on the entities' history of sanctioning learning opportunities appropriate to the practice of registered nursing. The bill would require the board, by January 1, 2019, to deliver a report to the appropriate legislative policy committees detailing a comprehensive plan for approving and disapproving continuing education opportunities.

Existing law requires insurers that provide liability insurance to certain licensees, including persons licensed by the board, to report to the licensing agency certain settlement or arbitration awards over $3,000.

This bill would increase the report threshold to $10,000 for a person licensed under the act.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 801 of the Business and Professions Code is amended to read:

801. (a) Except as provided in Section 801.01 and subdivisions (b), (c), (d), and (e) of this section, every insurer providing professional liability insurance to a person who holds a license, certificate, or similar authority from or under any agency specified in subdivision (a) of Section 800 shall send a complete report to that agency as to any settlement or arbitration award over three thousand dollars ($3,000) of a claim or action for damages for death or personal injury caused by that person's negligence, error, or omission in practice, or by his or her rendering of unauthorized professional services. The report shall be sent within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto or within 30 days after service of the arbitration award on the parties.

(b) Every insurer providing professional liability insurance to a person licensed pursuant to Chapter 13 (commencing with Section 4980), Chapter 14 (commencing with Section 4990), or Chapter 16 (commencing with Section 4999.10) shall send a complete report to the Board of Behavioral Sciences as to any settlement or arbitration award over ten thousand dollars ($10,000) of a claim or action for damages for death or personal injury caused by that person's negligence, error, or omission in practice, or by his or her rendering of unauthorized professional services. The report shall be sent within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto or within 30 days after service of the arbitration award on the parties.

(c) Every insurer providing professional liability insurance to a dentist licensed pursuant to Chapter 4 (commencing with Section 1600) shall send a complete report to the Dental Board of California as to any settlement or arbitration award over ten thousand dollars ($10,000) of a claim or action for damages for death or personal injury caused by that person's negligence, error, or omission in practice, or rendering of unauthorized professional services. The report shall be sent within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto or within 30 days after service of the arbitration award on the parties.

(d) Every insurer providing liability insurance to a veterinarian licensed pursuant to Chapter 11 (commencing with Section 4800) shall send a complete report to the Veterinary Medical Board of any settlement or arbitration award over ten thousand dollars ($10,000) of a claim or action for damages for death or injury caused by that person's negligence, error, or omission in practice, or rendering of unauthorized professional service. The report shall be sent within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto or within 30 days after service of the arbitration award on the parties.

(e) Every insurer providing professional liability insurance to a person licensed pursuant to Chapter 6 (commencing with Section 2700) shall send a complete report to the Board of Registered Nursing as to any settlement or arbitration award over ten thousand dollars ($10,000) of a claim or action for damages for death or personal injury caused by that person's negligence, error, or

omission in practice, or by his or her rendering of unauthorized professional services. The report shall be sent within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto or within 30 days after service of the arbitration award on the parties.

(f) The insurer shall notify the claimant, or if the claimant is represented by counsel, the insurer shall notify the claimant's attorney, that the report required by subdivision (a), (b), or (c) has been sent to the agency. If the attorney has not received this notice within 45 days after the settlement was reduced to writing and signed by all of the parties, the arbitration award was served on the parties, or the date of entry of the civil judgment, the attorney shall make the report to the agency.

(g) Notwithstanding any other provision of law, no insurer shall enter into a settlement without the written consent of the insured, except that this prohibition shall not void any settlement entered into without that written consent. The requirement of written consent shall only be waived by both the insured and the insurer.

SEC. 2. Section 2701 of the Business and Professions Code is amended to read:

2701. (a) There is in the Department of Consumer Affairs the Board of Registered Nursing consisting of nine members.

(b) For purposes of this chapter, "board," or "the board," refers to the Board of Registered Nursing. Any reference in state law to the Board of Nurse Examiners of the State of California or the California Board of Nursing Education and Nurse Registration shall be construed to refer to the Board of Registered Nursing.

(c) The board shall have all authority vested in the previous board under this chapter. The board may enforce all disciplinary actions undertaken by the previous board.

(d) This section shall remain in effect only until January 1, 2022, and as of that date, is repealed, unless a later enacted statute that is enacted before January 1, 2022, deletes or extends that date. Notwithstanding any other law, the repeal of this section renders the board subject to review by the appropriate policy committees of the Legislature.

SEC. 3. Section 2708 of the Business and Professions Code is amended to read:

2708. (a) The board shall appoint an executive officer who shall perform the duties delegated by the board and who shall be responsible to it for the accomplishment of those duties.

(b) The executive officer shall be a nurse currently licensed under this chapter and shall possess other qualifications as determined by the board.

(c) The executive officer shall not be a member of the board.

(d) This section shall remain in effect only until January 1, 2022, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2022, deletes or extends that date.

SEC. 4. Section 2718 of the Business and Professions Code is repealed.

SEC. 5. Section 2761.5 is added to the Business and Professions Code, to read:

2761.5. (a) If a registered nurse has knowledge that another person has committed any act listed as grounds for discipline or a denial of application pursuant to Section 2761, the registered nurse shall report this information to the board in writing and shall cooperate with the board in furnishing information or assistance as may be required.

(b) An employer of a registered nurse shall report to the board the suspension or termination for cause, or resignation for cause, of any registered nurse in its employ. In the case of a registered nurse employed by the state, the report shall not be made until after the conclusion of the review process specified in Section 52.3 of Title 2 of the California Code of Regulations and Skelly v. State Personnel Bd. (1975) 15 Cal.3d 194. This required reporting shall not constitute a waiver of confidentiality of medical records. The information reported or disclosed shall be kept confidential and shall not be subject to discovery in civil cases.

(c) An employer shall report to the board the rejection from assignment of a registered nurse by a health facility or home health care provider due to acts that would be cause for suspension or termination as described in subdivision (d).

(d) For purposes of this section, “suspension, termination, or resignation for cause” or “rejection from assignment” are defined as suspension, termination, or resignation from employment, or rejection from assignment, for any of the following reasons:

(1) Use of controlled substances or alcohol to the extent that it impairs the licensee’s ability to safely practice registered nursing.

(2) Unlawful sale of a controlled substance or other prescription items.

(3) Patient or client abuse, neglect, physical harm, or sexual contact with a patient or client.

(4) Falsification of medical records.

(5) Gross negligence or incompetence.

(6) Theft from patients or clients, other employees, or the employer.

(e) Failure of a registered nurse or an employer to make a report required by this section is punishable by an administrative fine not to exceed ten thousand dollars ($10,000) per violation and shall not be punished pursuant to Section 2799.

(f) Pursuant to Section 43.8 of the Civil Code, a person shall not incur any civil penalty as a result of making any report required by this chapter.

(g) For purposes of this section, "employer" includes employment agencies and nursing registries.

SEC. 6. Section 2770.7 of the Business and Professions Code is amended to read:

2770.7. (a) The board shall establish criteria for the acceptance, denial, or termination of registered nurses in the intervention program. Only those registered nurses who have voluntarily requested to participate in the intervention program shall participate in the program.

(b) A registered nurse under current investigation by the board may request entry into the intervention program by contacting the board.

(c) The board shall investigate all complaints against registered nurses participating in the intervention program.

(d) Neither acceptance nor participation in the intervention program shall preclude the board from investigating or continuing to investigate, or taking disciplinary action or continuing to take disciplinary action against, any registered nurse for any unprofessional conduct committed before, during, or after participation in the intervention program.

(e) All registered nurses shall sign an agreement of understanding that the withdrawal or termination from the intervention program at a time when the program manager or intervention evaluation committee determines the licentiate presents a threat to the public's health and safety shall result in the

utilization by the board of intervention program treatment records in disciplinary or criminal proceedings.

(f) Any registered nurse terminated from the intervention program for failure to comply with program requirements is subject to disciplinary action by the board for acts committed before, during, and after participation in the intervention program. A registered nurse who has been under investigation by the board and has been terminated from the intervention program by an intervention evaluation committee shall be reported by the intervention evaluation committee to the board.

SEC. 7. Section 2811.5 of the Business and Professions Code is amended to read:

2811.5. (a) Each person renewing his or her license under Section 2811 shall submit proof satisfactory to the board that he or she has completed at least 30 hours of continuing education by pursuing a course or courses in the registered nurse field or relevant to the practice of the licensee.

(b) Continuing education courses may be from a continuing education provider either approved by the board before January 1, 2018, or approved by accrediting agencies or associations as the board deems appropriate, which shall include, but not be limited to, the following: American Association of Nurse Practitioners, American Association of Critical-Care Nurses, *and the* American Association of Nurse ~~Anesthetists, American Nurses Credentialing Center, and the National Association for Practical Nurse Education.~~ *Anesthetists.* The board shall promulgate emergency regulations to establish a list of approved entities based on the entities' history of sanctioning learning opportunities appropriate to the practice of registered nursing.

(c) Notwithstanding Section 10231.5 of the Government Code, the board, by January 1, 2019, in compliance with Section 9795 of the Government Code, shall deliver a report to the appropriate legislative policy committees detailing a comprehensive plan for approving and disapproving continuing education opportunities.

(d) The board shall not renew existing continuing education providers or approve individual continuing education providers or courses.

(e) For purposes of this section, the board shall, by regulation, establish standards for continuing education. The standards shall be established in a manner to ensure that a variety of alternative

forms of continuing education are available to licensees, including, but not limited to, academic studies, in-service education, institutes, seminars, lectures, conferences, workshops, extension studies, and home study programs. The standards shall take cognizance of specialized areas of practice, and content shall be relevant to the practice of nursing and shall be related to the evidence-based scientific knowledge or technical skills required for the practice of nursing or be related to direct or indirect patient or client care.

(f) The board shall audit continuing education providers at least once every five years to ensure adherence to regulatory requirements, and shall withhold or rescind approval from any provider that is in violation of the regulatory requirements.

(g) The board shall encourage continuing education in spousal or partner abuse detection and treatment. In the event the board establishes a requirement for continuing education coursework in spousal or partner abuse detection or treatment, that requirement shall be met by each licensee within no more than four years from the date the requirement is imposed.

(h) In establishing standards for continuing education, the board shall consider including a course in the special care needs of individuals and their families facing end-of-life issues, including, but not limited to, all of the following:

(1) Pain and symptom management.

(2) The psycho-social dynamics of death.

(3) Dying and bereavement.

(4) Hospice care.

(i) In establishing standards for continuing education, the board may include a course on pain management.

(j) This section shall not apply to licensees during the first two years immediately following their initial licensure in California or any other governmental jurisdiction.

(k) The board may, in accordance with the intent of this section, make exceptions from continuing education requirements for licensees residing in another state or country, or for reasons of health, military service, or other good cause.

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